2006-2007 Budget

Additionnal Information on the Budgetary Measures

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Additional Information on the Budgetary Measures

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NOTE TO THE READER

Section 1 of *2006-2007 Budget: Additional Information on the Budgetary Measures* provides a detailed account of the fiscal measures announced in the Budget Speech of March 23, 2006, and is the sole source of enabling legislation authorizing amendments to Québec's tax laws that stem from the fiscal measures announced.

Should there be inconsistencies between the information presented in Section 1 of this document and the information contained in any other document presenting the fiscal measures announced on March 23, 2006 and published by the Minister of Finance on that occasion, the information in Section 1 shall prevail.

Section 1

Revenue Measures

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APPENDIX

1. MEASURES CONCERNING INDIVIDUALS

1.1 Increase from $500 to $1 000 in the deduction for workers

So that the taxation system supports individuals who, by working, take an active part in the Québec economy, the April 21, 2005 Budget Speech announced the introduction of a general deduction for workers as of January 1, 2006.

The deduction, which is aimed at recognizing that part of an individual's earned income must go toward paying work-related expenses, corresponds to an amount equal to 6% of the individual's eligible earned income for a given taxation year, up to $500.

Briefly, an individual's eligible earned income for a given taxation year means the remuneration included in the calculation of the individual's income for the year from any office or employment, as well as the amount by which the individual's income for the year from businesses carried on by the individual alone or as a partner actively engaged in the businesses exceeds the individual's losses for the year from the businesses.

With a view to recognizing a larger proportion of expenses incurred by being in the labour market, the maximum amount of the deduction for workers will be doubled, from $500 to $1 000, as of the 2007 taxation year.

1.2 Increase in the refundable tax credit for home support for elderly persons

Since January 1, 2000, the refundable tax credit for home support for elderly persons has entitled individuals aged 70 or over to tax assistance equal to 23% of the eligible expenses they pay to obtain certain home support services, up to a maximum of $2 760 per year.

Essentially, the purpose of the tax credit is to provide financial assistance to elderly persons to make it easier for them to remain in their home and, as a result, avoid or delay having to take up residence in a facility of the public health and social services network.

To improve the cash situation of elderly persons, the tax credit is always paid in advance, under the service employment paycheque arrangement. Elderly persons wishing to take advantage of this tax assistance must therefore register for this payment arrangement and use it to pay their expenses eligible for the tax credit.

In general, such expenses correspond to the amounts paid by an individual for recognized home support services provided by an entrepreneur (e.g. a residence for elderly persons or a social economy business) or by an employee of the individual, excluding the cost of the food, beverages, materials or other property acquired by the individual in connection with the provision of the service. However, the amount of expenses eligible for this tax credit is subject to an annual limit of $12 000 per elderly person.

The table below specifies the expenses eligible for the tax credit, where the recognized home support services are provided to an elderly person by an employee of the latter, or by an entrepreneur.

TABLE 1.1

EXPENSES ELIGIBLE FOR THE TAX CREDIT

Services provided by an employee	Services provided by an entrepreneur
The employee's salary or wages for the recognized services provided, as well as the employer contributions attributable to the salary or wages.(1)	The amounts paid for the recognized services provided, including the goods and services tax and the Québec sales tax.

(1) The contributions payable under the *Act respecting the Québec Pension Plan*, the *Act respecting parental insurance*, the *Employment Insurance Act* and the *Act respecting the Régie de l'assurance maladie du Québec*.

Two types of home support services are recognized for the purposes of the application of the tax credit: personal support services and maintenance or supply services.

Personal support services are services provided to an elderly person that are essential to the elderly person's remaining at home or that enable the elderly person to remain at home, and that are listed in the table below.

TABLE 1.2

PERSONAL SUPPORT SERVICES

List of recognized services	Examples of types of services
A non-professional assistance service to enable an individual to perform an activity of daily living.	Services with respect to: – dressing, – personal hygiene (assistance in taking a bath), – eating (assistance for eating and drinking), – mobility in the home.
A meal preparation service.	When provided by a residence for elderly persons, services related to: – meal preparation and dining-room services provided by attendants, – the delivery of meals to an apartment or room in a residence for elderly persons from the latter's kitchen.
A non-specialized supervision service.	Services such as: – night supervision, – companion sitting.
A support service to enable an individual to fulfil the individual's duties or civic obligations.	Services required by an individual to meet the everyday demands of life in society, such as: – accompaniment on outings, – assistance in filling out forms, – budget management.

Maintenance or supply services are those, listed in the table below, provided in respect of a dwelling (e.g. an apartment in a residence for elderly persons, or a single-family home) or land on which the dwelling is situated.[1]

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[1] The dwelling in question must be the principal place of residence of the person claiming the tax credit, and the person or the person's spouse must be the owner, lessee or sublessee of the dwelling.

TABLE 1.3

MAINTENANCE OR SUPPLY SERVICES

List of recognized services	Examples of types of services
A housekeeping service.	Services related to routine household tasks usually carried out in a dwelling, such as: – housekeeping of living areas (e.g. sweeping, dusting or cleaning), – maintenance of appliances (e.g. cleaning of the oven or refrigerator), – cleaning of rugs and upholstered furniture, – cleaning of air ducts, when they do not have to be dismantled.
Clothing care service.	For example, a clothes cleaning service provided by a domestic helper or a residence for elderly persons.
A maintenance service consisting of minor maintenance work performed outside of a dwelling.	Examples include: – grass cutting and lawn maintenance (such as fertilization), – hedge trimming and plant-bed maintenance, – raking and disposal of leaves, – sweeping of a chimney, – snow removal, – pruning of trees, – cleaning the outside of the dwelling, the windows and the eavestroughs, – pool maintenance, – garbage removal by the caretaker.
An everyday necessities supply service.	The service enabling a person to obtain everyday necessities (e.g. grocery delivery service).

In recent months, the ministère des Finances consulted several groups and organizations interested in the tax credit. To that end, the department met with various seniors' associations, the Association des Résidences et CHSLD Privés du Québec and the Conseil des aînés du Québec,[2] which, in spring 2005, tabled an opinion on the tax credit for home support for elderly persons.

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[2] Created at the request of seniors' groups, the Conseil des aînés is a government body whose main responsibilities are to promote seniors' rights, interests and participation in society, and to advise the Minister of Families, Seniors and the Status of Women on all matters pertaining to seniors.

According to all of the groups and organizations consulted, the tax credit has become indispensable in helping elderly persons remain in their living environment as long as possible.

However, the groups and organizations raised the complexity of certain aspects of the tax credit and emphasized that some elderly persons need ongoing services. They also pointed out that individuals who do not live in a residence for elderly persons are unfortunately not very familiar with the tax credit. In their view, greater access to the tax credit is a key factor in facilitating home support.

To meet the expectations expressed, various changes will thus be made, as of January 1, 2007, to a number of parameters of the tax credit in order to simplify its application, increase access to the credit and provide more assistance to elderly persons who have substantial expenses.

The table below gives an overview of the principal changes that will be made, as of the 2007 taxation year, to the parameters of the refundable tax credit for home support for elderly persons.

TABLE 1.4

OVERVIEW OF THE PRINCIPAL CHANGES TO BE MADE TO THE TAX CREDIT

Basic parameters

- Increase in the tax credit rate from 23% to 25%
- Increase in the eligible expenses limit from $12 000 to $15 000
- Introduction of a $300 deductible

Payment of the tax credit

- Claiming the tax credit on the income tax return
- Advance payment of the tax credit by Revenu Québec

Recognized home support services

- Eligibility of nursing services as recognized home support services

Amount of eligible expenses

- New rules for determining eligible expenses included in charges resulting from co-ownership

1.2.1 Increase in the tax credit rate and eligible expenses limit, and introduction of a deductible

The rate of the refundable tax credit for home support for elderly persons will be increased from 23% to 25%, and the annual limit on eligible expenses applicable to elderly persons will be raised from $12 000 to $15 000.

For elderly persons who have substantial home support expenses, these enhancements will represent additional assistance of almost $1 000 a year, as the maximum amount of the credit will rise from $2 760 to $3 750.

Moreover, so that the tax assistance goes to people who have to pay relatively large amounts for home support services, the first $300 paid in a year for recognized home support services will no longer be considered an expense eligible for the tax credit.

1.2.2 Payment of the tax credit by Revenu Québec

Currently, individuals wishing to take advantage of the tax assistance afforded by the refundable tax credit for home support for elderly persons must register for the service employment paycheque (SEP) arrangement and use it to pay their expenses eligible for the tax credit.

To register for the SEP, an individual must authorize the SEP manager to withdraw, from the individual's bank account, the amounts required to pay the expenses eligible for the tax credit.

Once authorization has been granted, the elderly person receives payment orders. A payment order must be filled out when an eligible expense has to be paid, and must indicate the total amount payable to the service provider and the portion of the amount constituting an expense eligible for the tax credit.

The payment order must then be transmitted to the SEP manager, who executes it by withdrawing, from the bank account designated by the elderly person, an amount equal to that by which the amount required to execute the payment order exceeds the amount corresponding to 23% of the expense giving entitlement to the tax credit.

Thus, for elderly persons, advance payment consists of an immediate reduction in the expenses eligible for the tax credit. For example, if an elderly person acquires a snow removal service at a cost $500, only $385 will be debited from the person's bank account, because the person is entitled to a tax credit of $115 ($500 x 23%).

To simplify the procedure for obtaining the tax credit and, at the same time, enhance access to the credit, use of the SEP arrangement to pay expenses eligible for the credit will cease as of January 1, 2007. Thus, the refundable tax credit for home support for elderly persons, like most other tax credits, will be claimed on the income tax return.

However, so that elderly persons may continue to receive tax assistance during the year, the tax credit may be paid in advance by Revenu Québec monthly or sporadically, depending on the type of expense. When an elderly person's income tax return for a given taxation year is filed, the total of the amounts paid in advance will have to be reconciled with the amount of the tax credit to which the elderly person is entitled for the year.

☐ Claiming the tax credit on the income tax return

To claim the tax credit in respect of eligible expenses paid in a taxation year, elderly persons must file an income tax return for the year and attach to it, if they live in a residence for elderly persons or a condominium, an information return filled out by the lessor or the syndicate of co-owners, as applicable.

Elderly persons will not be required to attach to their income tax return the invoices or other supporting documents related to the recognized home support services they paid for. However, they must keep the documents given that Revenu Québec may audit their tax return at a later date and require them to prove that the services received constitute recognized home support services for the purposes of the application of the tax credit.

The time period for keeping the supporting documents will be the same as that under the general rule, according to which anyone who is required to keep registers must retain them, as well as any documents substantiating the information contained therein, for six years after the last year to which they apply.

☐ Advance payment of the tax credit by Revenu Québec

At the request of a person who believes he is entitled, for a given taxation year, to the refundable tax credit for home support for elderly persons, and who paid or is required to pay an eligible expense during that year, Revenu Québec may pay the tax credit in advance, where the person:

- is a resident in Québec at the time of the request;
- has attained the age of 70 years;
- agrees to direct deposit of the advance payments in an account held by the person in a financial institution located in Québec.

Requests for advance payment of the tax credit must be made on the prescribed form and accompanied by any other document deemed necessary by Revenu Québec.

The table below indicates the type of documents that may be requested by Revenu Québec, by category of eligible expenses, and the deadline by which the advance payments will be made.

TABLE 1.5

ADVANCE PAYMENT OF THE TAX CREDIT

Category of eligible expenses	Documents to be sent with the request for advance payment	Payment deadline
Expenses included in rent	Information return sent by the lessor in regard to the rent payable at the time of the request	Before the first day of each month
Expenses included in charges resulting from co-ownership payable in several instalments	Return indicating the elderly person's share of the estimated eligible expenses payable for the year by the syndicate of co-owners	Before the first day of each month
Expenses included in charges resulting from co-ownership payable in a single instalment	Return indicating the elderly person's share of the estimated eligible expenses payable for the year by the syndicate of co-owners	Within 30 days of the request
Continuous expenses(1)	Copy of the service contract	Before the first day of each month
Sporadic expenses(2)	Copy of the invoice or service contract, as applicable	Within 30 days of the request

(1) For example, the salary of a care attendant, fees paid to a social economy business for twice-monthly housekeeping, or fees paid to a residence for elderly persons for à la carte services (meals, housekeeping, care attendant, etc.) provided on a regular basis.

(2) For example, fees paid under a snow removal contract, or fees paid to a residence for elderly persons for à la carte services (meals, housekeeping, care attendant, etc.) provided on a temporary basis.

Elderly persons who receive advance payments regularly must notify Revenu Québec promptly of any change in their situation that may influence the advance payments to which they are entitled.

1.2.3 Recognition of nursing services

Under the existing rules, personal support services rendered by an individual carrying on a profession in which health-related care and treatment are provided do not constitute recognized home support services for the purposes of the application of the tax credit.

Yet "light" medical care services undeniably contribute, like other services, to enabling elderly persons to remain at home.

In this context, the tax legislation will be amended to stipulate that personal support services provided by a member of the Ordre professionnel des infirmières et des infirmiers du Québec or the Ordre professionnel des infirmières et des infirmiers auxiliaires du Québec will constitute, as of the 2007 taxation year, recognized home support services for the purposes of the application of the tax credit.[3]

1.2.4 Clarifications concerning certain home support services

Various amendments will be made to the tax legislation to better define certain types of recognized home support services for the purposes of the application of the tax credit.

☐ Meal preparation service

The tax legislation will be amended to stipulate that a meal preparation service:

— means, where the cost of the service is not included in rent, a support service provided to an elderly person in a self-contained domestic establishment constituting the person's principal place of residence, for the purpose of preparing the person's meals, or a meal preparation service provided by a community organization established and operated exclusively for non-profit purposes (e.g. meals on wheels);

— may include a meal delivery service only if delivery is made either to a room or apartment in a residence for elderly persons from the latter's kitchen, or by a community organization established and operated exclusively for non-profit purposes.

☐ Clothing care service

The tax legislation will be amended to extend clothing care services to household linens and to stipulate that a service for the care of clothing and household linens provided for the benefit of an elderly person, by a person or partnership whose principal business consists in providing dry cleaning, laundering, pressing and related services, will be eligible only if it is provided at the residence for elderly persons where the elderly person concerned lives.

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[3] For greater clarity, the amounts paid for nursing services may be included in the calculation of the expenses eligible for the tax credit only if they have not been taken into account in the calculation of a deduction or another tax credit granted under the taxation system (e.g. the tax credit for medical expenses).

☐ Maintenance service consisting of minor maintenance work performed outside of a dwelling

Currently, a maintenance service consisting of minor maintenance work performed outside of a dwelling does not include, among other things, assistance in installing or removing seasonal shelters.

Given that it can be dangerous for elderly persons to carry out such work themselves, the tax legislation will be amended to provide that minor maintenance work performed outside of a dwelling includes work that generally recurs each year on a more or less set date in keeping with the change in seasons, such as the installation and removal of seasonal shelters.

☐ Maintenance service consisting of minor maintenance work performed inside an immovable

The tax legislation will be amended to provide that a maintenance service consisting of minor maintenance work performed inside an immovable is considered a maintenance or supply service, where the work is related to a facility, such as a pool, which, by reason of its nature or intended use, could have been located outside the immovable.

1.2.5 Determination of eligible expenses included in charges resulting from co-ownership

Currently, the tax legislation stipulates that the portion of an amount as charges resulting from co-ownership that may reasonably be attributed to recognized home support services may constitute an expense eligible for the tax credit if it is reasonable, in respect of the charges, and specifically identified in writing by the service provider.

In that regard, Revenu Québec allows co-owners to claim the tax credit on the basis of the budget voted by the annual general meeting of the co-owners, as the services are paid, where all of the expenses provided for with respect to the management and upkeep of the immovable held in co-ownership are voted by the annual general meeting of the co-owners, the co-owners each pay common costs according to their share on the basis of the budget, and the recognized services are billed directly to the syndicate of co-owners.

These rules have generated a certain amount of criticism because of the attendant application problems, in particular with regard to determining the recognized home support services to which the charges resulting from co-ownership relate, as the services required during the year by an immovable held in co-ownership are often known only to the syndicate of co-owners.

Without that information, elderly persons cannot easily claim the tax credit with respect to the charges resulting from co-ownership paid by them during a given taxation year.

Given that the budget voted by the annual general meeting of the co-owners is no more than a forecast of the expenditures that may be incurred to manage and maintain an immovable held in divided co-ownership, the tax legislation will be amended to determine eligible expenses so that they more adequately reflect the amounts paid for recognized home support services.

More specifically, the tax legislation will be amended to provide that the eligible expenses of an elderly person for a given taxation year with regard to charges resulting from co-ownership correspond to the amount obtained by applying the elderly person's share of the charges resulting from co-ownership to the total amount paid during the year by the syndicate of co-owners for recognized home support services in respect of common portions.

Moreover, to facilitate access to the tax credit for elderly persons who own an immovable in divided co-ownership, the tax regulations will be amended to provide that, upon request, syndicates of co-owners must file an information return on a prescribed form, where the request is made no later than the end of the calendar year for which the return is to be filed.

For a given taxation year, the information return must, among other things, indicate the elderly person's share of the charges resulting from co-ownership in respect of common portions not for restricted use, as well as the total amount paid by the syndicate of co-owners during the year, in regard to the charges, that is attributable to recognized home support services.

The syndicate of co-owners must transmit the information return to Revenu Québec no later than the last day of February of the calendar year following the calendar year for which the elderly person requests that the return be filed. A copy of the return must also be sent, by the same time limit, to the elderly person concerned.

1.3 Introduction of tax relief for employee transit passes

With a view to promoting sustainable development and fighting climate change, Quebecers must do their part to reduce greenhouse gas emissions, a large percentage of which is attributable to the transportation sector and, in particular, to the use of motor vehicles.[4]

Quebecers, who represent only 0.12% of the world's population, nevertheless produce roughly 0.3% of all greenhouse gases. If nothing is done to reduce these emissions, it is expected that, in 2010, they will exceed their 1990 levels by 13%.[5]

In this context, reducing the energy consumption of motor vehicles is an important aspect of the solution to climate change. For example, one bus filled with passengers can replace 40 cars on the road during rush hour, which means a reduction of 175 tonnes of greenhouse gas emissions a year.

Increased use of public transit could therefore be an efficient way to reduce greenhouse gas emissions and promote sustainable development.

Thus, to encourage employers to offer their employees programs promoting regular use of public transit[6] to commute to work, and encourage employees to participate in the programs, various tax relief measures will be introduced.

1.3.1 Additional deduction of 100% in the calculation of an employer's income

As a rule, employers may deduct, in the calculation of their income from a business for a given taxation year, the outlays or expenses paid in that year or payable in respect of that year, where the amounts may reasonably be considered to relate to the business and to have been incurred to derive income from the business.

Monetary and non-monetary benefits granted by employers to their employees, such as the reimbursement of employee travel expenses or the supply of transit passes, is generally deductible in the calculation of the employers' business income.

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[4] Passenger and goods transportation is directly responsible for nearly 40% of Québec emissions. Road transportation alone accounts for 85% of emissions in the transportation sector.

[5] MINISTÈRE DE L'ENVIRONNEMENT, Stratégie québécoise sur la diversité biologique 2004-2007 – Pour la mise en œuvre au Québec de la Convention sur la diversité biologique des Nations Unies, 2004, p. 46.

[6] For regular public transit services and paratransit services.

Currently, there is no provision under the taxation system for encouraging employers to reimburse their employees for transit expenses incurred to commute to their place of work, or to supply transit passes to their employees.

The tax legislation will therefore be amended to enable employers to deduct, in the calculation of their income from a business, an additional amount equal to 100% of an amount, otherwise deductible in the calculation of their income, representing:

- an amount granted to an employee as the total or partial reimbursement, upon presentation of supporting documents, of the cost of an eligible transit pass, where the pass was acquired on a subscription basis and where the employee acquired it with a view to using it to commute between his usual place of residence and his place of work;
- an amount granted to an employee as the total or partial reimbursement, upon presentation of supporting documents, of the cost of an eligible paratransit pass, where the employee acquired the pass with a view to using it to commute between his usual place of residence and his place of work; or
- the cost for employers of an eligible transit pass or eligible paratransit pass, where the pass was provided to an employee primarily to commute between his usual place of residence and his place of work.

❑ Transit passes

For the purposes of the application of the deduction, the term "eligible transit pass" will designate a transit pass enabling the use of a public transport service, other than paratransit, provided by a public entity authorized by law to organize such a service.[7]

The term "eligible paratransit pass" will designate a transit pass enabling the use of a paratransit service provided by a public entity authorized by law to organize such a service.

Lastly, a transit pass will be considered a subscription-type pass only if it involves a subscription for a period of at least one month.

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[7] For example, public entities authorized by law to organize a public transport service are municipal bodies, intermunicipal transportation bodies, the Agence métropolitaine de transport and the authorities contemplated in the *Act respecting public transit authorities*, namely, the transit authorities of Laval, Lévis, Longueuil (RTL), Montréal, Outaouais, Québec (RTC), Saguenay, Sherbrooke and Trois-Rivières.

☐ Application dates

The additional deduction of 100% related to employee transit passes will apply to:

- reimbursements, after the day of the Budget Speech, of the cost of subscription-type transit passes valid for a period after March 31, 2006, up to the portion of the reimbursements that is attributable to that period;
- reimbursements, after the day of the Budget Speech, of the cost of paratransit passes, other than subscription-type passes, valid for a period after that day;
- transit passes supplied by employers after the day of the Budget Speech.

1.3.2 Non-taxation of benefits granted to employees

Under the tax legislation, when an employer assumes, on behalf of an employee, the expenses incurred by the employee to commute to work, on public transit or otherwise, the employee is almost always required to include the value of that benefit in the calculation of his income.

In that regard, the tax legislation will be amended to provide that individuals are not required to include, in the calculation of their income from an office or employment, the value of a benefit received because of, or in the course of, the office or employment, where the benefit stems from:

- the total or partial reimbursement, upon presentation of supporting documents, of the cost of an eligible transit pass, where the pass was acquired on a subscription basis and where the employee acquired it with a view to using it to commute between his usual place of residence and his place of work;
- the total or partial reimbursement, upon presentation of supporting documents, of the cost of an eligible paratransit pass, where the individual acquired the pass with a view to using it to commute between his usual place of residence and his place of work; or
- the supply of an eligible transit pass or eligible paratransit pass, where the pass was provided to the individual primarily to commute between his usual place of residence and his place of work.

For the purposes of the application of this measure, eligible transit pass, eligible paratransit pass and subscription-type transit pass will have the same meaning as for the purposes of the calculation of the additional deduction of 100% for employers.

The application dates of this measure will be the same as those for the additional deduction.

1.4 Improvement in the tax treatment of donations and gifts

The current tax system authorizes several entities to issue tax receipts for donations or gifts they receive from individuals or corporations. These receipts allow donors to obtain tax benefits.

In the case of individuals, these tax benefits essentially take the form of a non-refundable tax credit, whereas in the case of corporations, they are in the form of a deduction made in calculating their taxable income.

To give entitlement to the tax credit or the deduction, as the case may be, donations and gifts must be made to recognized entities. In some instances, entities are recognized simply because they are public entities, as is the case of the State and municipalities. In other instances, recognition is granted on an individual basis, as in the case of charities and certain arts organizations.

The tax credit or deduction for donations and gifts to which a taxpayer is entitled is calculated taking into account the eligible amount of each donation or gift he made, that is, the amount equal to the excess of the fair market value – real or deemed[8] – of the property donated over the amount of the advantage, where applicable, in respect of the donation or gift.

When donations or gifts made by a taxpayer qualify as gifts of cultural property or similar gifts, or gifts of property with undeniable ecological value, the total of the eligible amounts of such gifts may be considered in calculating the tax credit or the deduction.

In other cases, particularly as concerns charitable donations, the total of the eligible amounts of the donations or gifts is limited, for the purpose of calculating the tax credit or the deduction, to a specific level of the taxpayer's income.

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[8] In certain circumstances, the tax legislation provides for presumptions for the purposes of establishing the fair market value of a given property. For example, where a property is donated within three years of its acquisition other than following a death, its fair market value is deemed equal to the cost of the property or to its adjusted cost base, as the case may be.

As a rule, the limit is set at 75% of the taxpayer's income for the year during which the donations or gifts were made. However, any part of the amount of donations or gifts which cannot be taken into account in calculating the tax credit or the deduction may be carried forward over the five subsequent taxation years.

Various measures will be introduced to further encourage donations and gifts by improving the tax credit for donations and gifts granted to individuals and better recognizing donations made by corporations. These measures will also assist educational institutions in developing musical talent and grant additional support to Québec museums.

1.4.1 Improvement of the tax credit for donations and gifts

Currently, the tax credit to which an individual is entitled is calculated on the basis of two rates. For the first $2 000 taken into consideration, the applicable rate is 20%, that is, the rate applicable to the conversion into non-refundable tax credits of the amounts for recognized essential needs. For the remainder, the applicable rate is 24%, that is, the maximum marginal rate applicable for the purposes of calculating personal income tax.

To further encourage donations, the tax legislation will be amended, as of the 2006 taxation year, to reduce the threshold above which the tax credit applies to a rate of 24%. More specifically, the threshold of $2 000 will be lowered to $200.

Thus, the first $200 taken into consideration in the calculation of the tax assistance for donations made by an individual will give entitlement to a tax credit calculated at a rate of 20%, while a rate of 24% will apply to the remainder.

1.4.2 Extension of the carry-forward period for donations or gifts made by corporations

In calculating its taxable income for a given taxation year, a corporation may deduct the total of the eligible amounts of the donations or gifts it has made in the course of that year.

However, where the gifts made are neither gifts of cultural property – or similar gifts – nor gifts of property with undeniable ecological value, the amount that the corporation can claim in calculating its taxable income for a given taxation year is, as a rule, limited to 75% of its income for that year.

Any amount that a corporation cannot deduct in the calculation of its taxable income for the year may be carried forward for future use over the five subsequent taxation years, subject to the application, for each of the five years in question, of the limit set on the basis of income.

However, despite this five-year carry-forward period, some corporations have difficulty using the eligible amounts of their gifts in full before the end of the applicable period. This is the case, in particular, for holding companies whose income derives almost completely, for a certain number of years, from non-taxable dividends and who, for this reason, have little or no tax to pay.

In order to better recognize the significant contribution corporations make to charities, the tax legislation will be amended to extend the carry-forward period for donations made by corporations from five to twenty years.

This amendment will apply to donations made by a corporation during a taxation year ending after the day of the Budget Speech.

1.4.3 Gifts of musical instruments to institutions offering musical training

Québec has numerous elementary and secondary vocational music schools that allow students to pursue their academic studies while simultaneously receiving musical training, which is founded among other things on daily instrument practice. Several college-level educational institutions also offer music programs, while eight Québec universities offer higher education programs in this field of study.

The Conservatoire de musique et d'art dramatique du Québec, which has a network of seven music conservatories, offers specialized, intensive instruction to students wishing to become professional musicians.

To support educational institutions offering musical training in Québec, measures will be introduced to enable them to acquire more easily, by way of gifts, musical instruments for use by their students.

❑ Capital gains exemption

As is the case for most gifts in kind, the gift of a musical instrument may occasionally entail the realization of a capital gain, of which a portion (50%) is taxable.

In order to encourage the donation of such property, the tax legislation will be amended to stipulate that no capital gain will result from the gift of a musical instrument, where this gift is made to a recognized educational institution.

❑ Tax credit or deduction for donations and gifts

An institution, simply by virtue of being a recognized educational institution, will be authorized to issue a receipt for donations stipulating that that receipt is valid for Québec income tax purposes, when it receives a gift of a musical instrument.

It follows that a taxpayer may, for the purposes of calculating the tax credit or deduction for donations and gifts for a given taxation year, take into account the eligible amount of any gift of a musical instrument he has made in the course of that year or, if the gift can be carried forward to that year, in the course of a previous year,[9] to a recognized educational institution.

For greater clarity, the limit, generally set at 75% of the donor's income, on the total of the eligible amounts of the gifts used to calculate the tax credit or the deduction for donations and gifts, as the case may be, will not apply to gifts of musical instruments made to recognized educational institutions.

Moreover, the presumption intended to limit, for the purposes of calculating the eligible amount of a gift, the fair market value of the property donated to its cost or its adjusted cost base, as the case may be, will not apply for the purposes of calculating the eligible amount of a gift of a musical instrument made to a recognized educational institution.

❑ Recognized educational institution

A recognized educational institution refers to an institution located in Québec and that is:

- an elementary or secondary school contemplated by the *Education Act* or by the *Education Act for Cree, Inuit and Naskapi Native Persons*; or
- a college governed by the *General and Vocational Colleges Act*; or
- a private educational institution accredited for purposes of subsidies under the *Act respecting private education*; or
- a university-level educational institution within the meaning of the *Act respecting educational institutions at the university level*; or
- an institution providing instruction in music that is part of the network of the Conservatoire de musique et d'art dramatique du Québec.

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[9] Essentially, in the case of individuals, a gift made in a given taxation year can be carried forward to one of the five subsequent taxation years. In the case of corporations, the carry-forward period for gifts varies, given the extension measure described in subsection 1.4.2, according to the year in which the gift was made. Thus, a gift made in a given taxation year ending before the day following the Budget Speech may be carried forward to one of the five subsequent taxation years, whereas a gift made in a given taxation year ending after the day of the Budget Speech may be carried forward to one of the twenty subsequent taxation years.

❑ Registers and records

Recognized educational institutions will be required to keep registers and a copy of each receipt, containing the information required by the tax regulations, that they issue for gifts of musical instruments.

The registers kept by recognized educational institutions must contain all the information necessary to allow Revenu Québec to check the donations made to them that give entitlement to tax benefits.

❑ Application date

These measures will apply to gifts made to a recognized educational institution after the day of the Budget Speech.

1.4.4 Gifts to Québec museums

As a rule, gifts in kind can entail the realization of a capital gain, of which a portion (50%) is taxable. Such gifts also entail the application of rules aimed at limiting, generally to 75% of the donor's income, the total of the eligible amounts of the gifts considered for the purposes of calculating the tax credit or deduction for donations and gifts.

However, in order to foster the acquisition of cultural property by public institutions, the tax system currently provides for more advantageous tax treatment.

A capital gain deriving from a gift of property that is either cultural property according to the Canadian Cultural Property Export Review Board, or cultural property classified or recognized under the *Cultural Property Act*, is not taxable, when the gift is made to an institution or public authority that is designated under the *Cultural Property Export and Import Act*.[10]

In addition, preferential treatment is provided for for the purposes of calculating the tax credit or deduction for donations and gifts. This preferential treatment means, in particular, that the limit, generally set at 75% of the donor's income, on the total of the eligible amounts of the gifts used to calculate the tax credit or the deduction for donations and gifts, as the case may be, is not applicable to gifts of cultural property.

In some cases, the tax system may assimilate a gift of property made to a certified archival centre or accredited museum to a gift of cultural property, thereby extending the advantageous tax treatment associated with such gifts to gifts made to a certified archival centre or accredited museum.

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[10] A gift of bare ownership of cultural property made in the course of a recognized gift with reserve of usufruct or use also gives entitlement to advantageous tax treatment.

To be assimilated to a gift of cultural property, a gift made to an accredited museum must concern property that is the object of a certificate issued by the Commission des biens culturels du Québec, to the effect that it was acquired by the museum in accordance with its acquisition and conservation policy and with the directives of the ministère de la Culture et des Communications (MCC).[11]

Such gifts, like gifts of cultural property, entail a capital gains exemption and preferential treatment for the application of the tax credit or deduction for donations and gifts, in particular through the non-application of the limit, generally set at 75% of the donor's income, on the total of the eligible amounts of the gifts used to calculate the tax credit or the deduction, as the case may be.

Also with a view to encouraging donations and gifts to Québec museums, the tax system stipulates that, when the gift is a work of art and is made to a museum located in Québec or any other museum that, at the time the gift is made, is an accredited museum, an increase of 25% in the eligible amount of the gift may be granted for the purposes of calculating the tax credit or the deduction for donations and gifts, as the case may be.[12]

The measures introduced to encourage gifts of property to Québec museums are thus orchestrated chiefly around the concept of accredited museum.

This concept is currently defined in the tax legislation as referring to a museum accredited by the Minister of Culture and Communications.

Initially, the term "accredited" was meant only to refer, in administrative language, to museums whose operations were supported financially by the MCC. Over the years, the meaning of the term changed gradually to become a label of quality that was accessible only to certain museums.

This state of affairs led the MCC to replace the museum accreditation process with a recognition mechanism that is accessible to all museums in Québec. This mechanism grants the museum a label of quality that is directly associated with its performance and in no way implies the awarding of financial assistance. However, due to their specific nature, museums established under the *National Museums Act* or the *Act respecting the Montreal Museum of Fine Arts* are not subject to the museum recognition mechanism.

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[11] A gift of bare ownership of property made to an accredited museum in the course of a recognized gift with reserve of usufruct or use may also qualify as a gift of cultural property.

[12] This increase may also apply to a gift of bare ownership of a work of art made in the course of a recognized gift with reserve of usufruct or use.

❑ Replacement of the definition of "accredited museum"

To take into account the changing practices of the MCC, the tax legislation will be amended to replace the definition of the expression "accredited museum" with a definition of the expression "recognized museum."

This expression will refer to a museum that has been recognized by the Minister of Culture and Communications under the museum recognition mechanism implemented further to the publication, in May 2000, of Québec's museum policy[13] and whose recognition is in force.

Given this replacement, various consequential amendments will be made to the current tax legislation.[14]

For greater clarity, consequential amendments will also be made to the provisions of the *Cultural Property Act* concerning the application of tax measures aimed at encouraging gifts of certain property to Québec museums.[15]

These amendments will apply as of the 2000 taxation year. However, for the 2000 taxation year, any museum that was an accredited museum immediately before having been recognized will be deemed to have been a recognized museum throughout the 2000 taxation year.

❑ Gifts of certain property made to Québec's four major museums

Under the existing rules, a gift of property to a museum established under the *National Museums Act* or the *Act respecting the Montreal Museum of Fine Arts* cannot be assimilated to a gift of cultural property that gives entitlement to the advantageous tax treatment associated with this type of gift.

In order for a gift to be assimilated to a gift of cultural property, it must be made to a museum that is part of a specific group.[16] Such museums will hereinafter be referred to as "museums selected by the MCC."

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[13] MINISTÈRE DE LA CULTURE ET DES COMMUNICATIONS, *Politique muséale : Vivre autrement… la ligne du temps*, May 2000.

[14] For example, the definition of the expression "recognized gift with reserve of usufruct or use" will have to be amended, as will the provisions of the tax credit or deduction for donations and gifts that make the granting of these tax benefits conditional upon the filing of a certificate issued by the Commission des biens culturels du Québec.

[15] These provisions concern the functions of the Commission des biens culturels du Québec, where property is acquired by an accredited museum. In such cases, the Commission may be required to determine the fair market value of the property for the purposes of calculating the tax credit or deduction for donations and gifts, and issue a certificate.

[16] Under the existing rules, the specific group to which a museum must belong is that of accredited museums. This group will be replaced by that of recognized museums, owing to the replacement of the definition of the expression "accredited museum" with a definition of the expression "recognized museum."

However, the three State museums established under the *National Museums Act*, namely, the Musée national des beaux-arts du Québec, the Musée d'art contemporain de Montréal and the Musée de la civilisation, as well as the Montreal Museum of Fine Arts, cannot be part of this specific group, due to their unique characteristics.

In order to better support the acquisition of property by Québec museums, the tax legislation will be amended to stipulate that a gift of property made after the day of the Budget Speech to a museum established under the *National Museums Act* or the *Act respecting the Montreal Museum of Fine Arts* shall be assimilated to a gift of cultural property that gives entitlement to the advantageous tax treatment associated with this type of gift, just as if the gift had been made to a museum selected by the MCC and subject to the same terms and conditions.

For greater clarity, consequential amendments will be made to the provisions of the *Cultural Property Act* concerning the application of tax measures aimed at encouraging gifts of certain property to Québec museums.[17]

Moreover, like the museums selected by the MCC, a museum established under the *National Museums Act* or the *Act respecting the Montreal Museum of Fine Arts* will be required to pay a special tax if it disposes, within nine years after the day of its acquisition, property having given entitlement to the advantageous tax treatment associated with cultural property. The amount of this special tax will be equal to 30% of the fair market value of the property at the time of its disposition and will be payable for the year in the course of which the property is disposed of.

However, no special tax will be payable when the property is disposed of to a certified archival centre, a museum selected by the MCC or an institution or public authority designated under the *Cultural Property Export and Import Act*.[18]

❑ General authorization to issue tax receipts

For the purposes of calculating the tax credit or deduction for donations and gifts, the tax system grants an increase of 25% in the eligible amount of the gift, where the latter is a work of art and is made to a museum located in Québec or any other museum that, at the time the gift is made, is a museum selected by the MCC.[19]

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[17] *Supra*, Note 15.

[18] The Musée national des beaux-arts du Québec, the Musée d'art contemporain de Montréal, the Musée de la civilisation and Montreal Museum of Fine Arts are not mentioned by name, given that they are among the institutions designated under the *Cultural Property Export and Import Act*.

[19] *Supra*, Note 12.

Under the existing rules, such a museum is automatically authorized to issue a tax receipt, where it receives a gift that is assimilated to a gift of cultural property.

For all other types of gifts, such as cash donations, museums selected by the MCC are not authorized to issue a Québec tax receipt unless they have been granted special status, such as that of a registered charity, a recognized arts organization or an institution designated under the *Cultural Property Export and Import Act*.

However, it would appear that a considerable number of museums selected by the MCC do not have such special status, thus making it difficult for them to obtain funding in the form of cash donations. This is in addition to the fact that they cannot benefit from the increase of 25% intended to encourage gifts of works of art, unless the gift meets all of the conditions for qualifying as a gift of cultural property.

Therefore, in order to make the increase of 25% granted in respect of gifts of works of art fully operational, and to facilitate the funding, in the form of cash donations, of museums selected by the MCC, a new category of organizations will be granted general authorization to issue Québec income tax receipts.

This new category will comprise organizations that have been registered as museums by the Minister of Revenue.

- **Registration conditions**

The Minister of Revenue may register an organization as a museum at the request of the organization, if he is of the opinion that it meets the following conditions:

— it is a museum having been recognized by the Minister of Culture and Communications under the museum recognition mechanism implemented further to the publication, in May 2000, of Québec's museum policy[20] and whose recognition is in force;

— it is not a registered charity or a recognized arts organization.

For greater clarity, the Minister of Revenue will be able to revoke the registration of a museum where the latter ceases to be recognized by the Minister of Culture and Communications.

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[20] *Supra*, Note 13.

- **Calculation of the tax credit or deduction for donations and gifts**

Donations and gifts made after the day of the Budget Speech to a museum whose registration is effective when the donations or gifts are made, hereinafter referred to as a "registered museum," will give entitlement to the tax credit or deduction for donations and gifts, under rules that are similar to those that apply to charitable donations.

More specifically, the tax legislation will be amended to stipulate that, for the purpose of calculating the tax credit or deduction for donations and gifts, the total eligible amount of donations and gifts made by a taxpayer during a given taxation year, other than gifts of property with undeniable ecological value and gifts of cultural property or similar gifts, will be calculated by taking into account the eligible amount of all gifts made by the taxpayer in the course of the year or, if the gift can be carried forward to that year, in the course of a previous year,[21] to a registered museum.

As a result of this change, donations and gifts to a registered museum will, notably, be subject to the limit, generally set at 75% of the donor's income, on the total of the eligible amounts of the gifts, other than gifts of property with undeniable ecological value and gifts of cultural property or similar gifts, that may be taken into account in calculating the tax credit or deduction for donations and gifts.

However, like gifts made to recognized arts organizations, gifts of works of art made to registered museums will be excluded from the presumption of non-donation of works of art.[22]

- **Rules relating to the expenditures of registered museums**

A registered museum will be required to spend, in a given taxation year, on museum activities such as acquisition, conservation, research, dissemination, education and cultural action, carried on by it or by way of gifts made by it to qualified donees, amounts that are at least equal to its disbursement quota for the year.

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[21] *Supra*, Note 9.

[22] This presumption constitutes an integrity measure implemented to ensure that the tax benefits derived from gifts or donations are actually used for the purposes for which they are intended, that is, to support the mission of the entity to which the donation is made. For greater clarity, it is stipulated that where a taxpayer donates a work of art to certain donees, the taxpayer will be deemed not to have donated the work of art, unless the donee disposes of it no later than December 31 of the fifth calendar year following that in which the donation or gift was made.

To this end, the expression "qualified donee" will refer to one of the following entities:

- the State or Her Majesty in right of Canada or a province;
- a Canadian municipality;
- a municipal or public body performing a function of government in Canada;
- an institution or public authority designated under the *Cultural Property Export and Import Act*;
- a certified archival centre;
- a recognized arts organization;
- a national arts service organization validly registered as such.

In addition, a gift made by a registered museum to another registered museum constituted for purposes similar to those for which it was itself constituted will be considered a gift made to a qualified donee.

As for the expression "disbursement quota," it will have essentially the same meaning as that currently used for recognized arts organizations.

In brief, the disbursement quota of a registered museum for a given taxation year will correspond, where the museum has never, among other things, received gifts qualifying as enduring property,[23] to an amount that is at least equal to 80% of the aggregate of all amounts each of which is the eligible amount of a gift for which the museum issued, in the course of its preceding taxation year, a Québec income tax receipt.

Rules similar to those that apply to registered charities will, however, be provided for so as to enable registered museums to accumulate property for certain specific purposes. Furthermore, the Minister of Revenue will have the power to ease the obligation to expend to which these museums will be subject.

In addition, to allow Revenu Québec to ensure compliance with this obligation to expend, registered museums will be required to file an information return for each of their fiscal years within six months of the end of the fiscal year. In regard to keeping registers and records, they will also be required to follow rules similar to those that apply to registered charities.

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[23] In general, enduring property refers to a gift received as a legacy or inheritance, direct distributions of proceeds of a life insurance policy, a registered retirement savings plan (RRSP) or a registered retirement income fund (RRIF) to an organization that is the designated beneficiary, or a gift that is subject to a trust clause or direction to the effect that the organization must hold it for a given period.

In a case where a registered museum does not comply with its obligation to expend, for a given taxation year, it will be required to pay Revenu Québec, within six months of the end of that year, an amount equal to the additional amount it would have been required to expend in that year to comply with its obligation.

Failure to comply with the obligation to expend may result in the revocation of the a museum's registration. The registration of such a museum may also be revoked if it makes a payment in the form of a gift, other than a gift made as part of its museum activities, to an entity that is not, for the purposes of its obligation to expend, a qualified donee. For greater clarity, the reasons for revoking registration that habitually apply[24] will also apply to registered museums.

Lastly, the authorization held by a registered museum to issue tax receipts for donations and gifts stipulating that said receipts are valid for Québec income tax purposes may be suspended, if the museum violates the requirements regarding the keeping of registers and records or acts in collusion with an organization under suspension in such a way as to accept a gift on that organization's behalf.

However, registered museums may have recourse to the objections process in respect of certain notices issued by the Minister of Revenue, including those concerning the suspension of such authorization.

1.5 Eligible expenses for the refundable tax credit for child-care expenses

In order to recognize the costs associated with parents' work or studies, the tax system grants a refundable tax credit for child-care expenses.

This tax credit is determined by applying, to eligible child-care expenses, a rate established on the basis of family income that may vary between 26% and 75%.

Subject to certain exclusions, all expenses incurred for the purpose of providing a child[25] with child-care services including baby sitting services, day nursery services or services provided at a boarding school or a camp can give entitlement to the refundable tax credit for child-care expenses, provided they were incurred to enable a taxpayer or another supporting person of a child (usually the taxpayer's spouse) to work, continue their studies or actively seek employment.

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[24] For example, the issuing of a receipt for a donation or gift that contains false information or failure to file an information return within the prescribed time limit.

[25] The child must be under 16 years of age or be the individual's dependant because of a mental or physical infirmity.

The child-care expenses excluded from the application of the tax credit include the parental contribution of $7 per day, which is paid, among others, to a child-care centre, a home child-care service or, for school-age children (kindergarten and elementary school), child-care services provided at school, where the child uses these services regularly on school days or uses them on pedagogical days.

Currently, parents of school-age children cannot benefit from a reduced contribution for the care of their children during the spring break, and must therefore pay fees of up to $25 per day.

In order to better reconcile work and family responsibilities, the government intends to offer parents, beginning in the 2006-2007 school year, the option of paying, during the spring break, a contribution of $14 per day for the care of school-age children (kindergarten and elementary school) who use school child-care services during that period.[26]

This new reduced contribution, unlike the contribution of $7 per day, will give entitlement to the refundable tax credit for child-care expenses, provided it has been paid to enable a taxpayer or another supporting person of a child (usually the taxpayer's spouse) to work, continue their studies or actively seek employment and that all conditions otherwise applicable have been satisfied.

1.6 Introduction of a deduction for foreign farm workers

In order to meet their needs for seasonal labour, several agricultural producers rely on the services of workers from abroad. For numerous agricultural producers in Québec, recourse to foreign workers plays a key role in the smooth operation of their businesses.

However, certain changes made to the tax system have resulted in the reduction of the Québec tax exemption threshold that applies to most foreign farm workers, which means that the tax treatment some of them now receive is less advantageous in Québec than in Ontario. Québec's agricultural sector can thus expect to be faced with serious foreign workforce recruitment problems, especially since these workers are in demand almost everywhere else in Canada.

To ensure that Québec's agricultural producers maintain their competitive edge in terms of foreign workforce recruitment, tax assistance will be introduced, beginning in the 2006 taxation year, making a portion of the income earned from employment carried on in Québec by eligible seasonal farm workers from abroad non-taxable.

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[26] This measure is presented in Section 2 of *Additional Information on the Budgetary Measures*, which deals with expenditure measures.

In general, this tax assistance will take the form of a deduction in the calculation of the taxable income of eligible workers, or, if the worker did not reside in Canada at any time of the year,[27] in the calculation of his income earned in Québec and his income earned in Canada.

☐ Eligible workers

For the purposes of this measure for a given taxation year, the expression "eligible worker" will refer to an individual who, in fact, did not reside in Canada at any time of the year and who has a valid work permit exclusively for seasonal farm work issued by the Canadian immigration authorities under a program, hereafter referred to as a "recognized federal program," that is:

— the Mexican Seasonal Agricultural Workers Program, implemented under a memorandum of understanding reached between the government of the United States of Mexico and the government of Canada; or

— the Caribbean Seasonal Agricultural Workers Program, implemented under a memorandum of understanding reached between the governments of certain Caribbean Commonwealth countries and the government of Canada; or

— the Pilot Project for Hiring Foreign Workers in Occupations that Usually Require a High School Diploma or Job-Specific Training, developed by the government of Canada.[28]

☐ Calculation of the deduction

For a given taxation year, an eligible worker whose income for that year is calculated without taking into account the provisions of Part II of the *Taxation Act*, due to the fact that he is deemed to have resided in Québec for the entire year where he has sojourned there for one or more periods totalling at least 183 days, may deduct, in the calculation of his taxable income for the year, an amount equal to 50% of the amount:

— by which the aggregate of all amounts each of which is a salary, wages or other remuneration that he received in the course of the year because of or in the course of employment carried on in Québec under a recognized federal program, and that has been included in the calculation of his income for the year, exceeds

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[27] In such a case, the worker must calculate his tax payable for the year based on the provisions of Part II of the *Taxation Act*.

[28] More specifically, this project was developed by the Department of Human Resources and Skills Development of Canada and the Department of Citizenship and Immigration of Canada.

— the aggregate of all amounts the individual can deduct in the calculation of his income for the year earned from employment and that can be reasonably attributed to employment carried on in Québec under a recognized federal program.[29]

In cases where the provisions of Part II of the *Taxation Act* apply to the calculation of the income of an eligible worker for a given taxation year, this deduction will be reflected in the calculation of his income earned in Québec and his income earned in Canada.

❑ Tax withholding at source

This new deduction for foreign farm workers will be automatically taken into consideration in the calculation of source deductions of income tax.

1.7 Opportunity for artists to defer taxation on a greater portion of their income

In order to acknowledge that the income of many artists fluctuates considerably from year to year, the tax system provides for a measure allowing them to defer the tax on a portion of their income.

Essentially, this measure allows an individual who is a professional artist, within the meaning of the *Act respecting the professional status of artists in the visual arts, arts and crafts and literature, and their contracts with promoters,* or an artist, within the meaning of the *Act respecting the professional status and conditions of engagement of performing, recording and film artists,* to deduct, in the calculation of his income for a given taxation year, the amount paid to acquire an eligible income-averaging annuity – which must, among other things, provide for the spreading of equal payments over a maximum period of seven years –, provided that the amount thus paid does not exceed the portion of his income deriving from his artistic activities that exceeds the total of the following amounts:

— $50 000, hereinafter referred to as "excluded amount;"

— the amount of the deduction respecting copyright income or similar royalties to which he is entitled for the year.[30]

The income tax thus averaged is payable over the following years as and when the income-averaging annuity payments are made, which can, due to the progressivity of the tax system, result in tax savings.

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[29] For example, amounts paid for supplies consumed directly in the performance of his duties (work gloves, hatchets, etc.).

[30] This deduction, which cannot exceed $15 000 of copyright income or similar royalties, can be reduced at the rate of $0.50 for each dollar of such income in excess of $30 000. Accordingly, a recognized artist with copyright income or similar royalties of $60 000 or more for a given year cannot claim the deduction in this respect for the year.

So that a greater number of artists have the opportunity to defer taxation on a portion of their income attributable to artistic activities, the excluded amount used for the purposes of determining the maximum amount that can be used to acquire an eligible income-averaging annuity will be reduced by half, beginning in the 2006 taxation year.

More specifically, a recognized artist's income that is eligible for averaging for a given taxation year will be equal to the amount by which the portion of the artist's income for the year that may reasonably be considered attributable to the artistic activities for which he is a recognized artist exceeds the aggregate of $25 000 and the amount of the deduction respecting copyright income or similar royalties to which he is entitled for the year.

1.8 Adjustments to the refundable tax credit for adoption expenses

A taxpayer who adopts a child is entitled to a refundable tax credit equivalent to 30% of the eligible adoption expenses that he or his spouse pays if the adoption process is completed. However, the amount of adoption expenses eligible for this tax credit is limited to $20 000. A taxpayer who adopts a child can thus claim a refundable tax credit of up to $6 000.

For the purposes of this tax credit, eligible adoption expenses include judicial and extrajudicial expenses incurred with a view to obtaining either a final adoption judgment in Québec or a certificate issued by the clerk of the Court of Québec in the case of the adoption of a child domiciled in the People's Republic of China. They also include certain travel expenses, expenses relating to the translation, where applicable, of documents pertaining to the adoption, the fees charged by organizations certified by the Minister of Health and Social Services and the fees charged by the foreign institution that provided for the needs of the child before he began living with his adoptive parents.

However, these expenses are eligible only insofar as they are reasonable and are paid after the opening, by the Minister of Health and Social Services or a certified agency, of the file relating to the adoption of a child.

Currently, only individuals in favour of whom a judgment was handed down by a court having jurisdiction in Québec or who hold a certificate of registration of the adoption of a child domiciled in the People's Republic of China can claim the refundable tax credit for adoption expenses.

In order to give full effect to the *Act to implement the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*, hereinafter referred to as the "*Intercountry Adoption Act*," which was adopted by Québec, and to make certain other expenses associated with adoption eligible for the tax credit, various adjustments will be made to the application details of the refundable tax credit for adoption expenses.

❑ Application of the *Intercountry Adoption Act*

Many countries, including Canada, have ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention), the aim of which is to establish guarantees that international adoptions take place in the best interests of the child, establish a cooperative framework among signatory States and ensure that signatory States recognize adoptions carried out in accordance with the Convention.

In Canada, adoption is a field of provincial jurisdiction. Therefore, in order to give force of law to the Convention and specify its application details, Québec assented to the *Intercountry Adoption Act*.

This act, which came into force on February 1, 2006, also made certain changes to the civil law system.

Before this act came into force, the *Civil Code of Québec* stipulated that the adoption of a child domiciled outside Québec had to be granted by judicial decision either in Québec or outside Québec. Judgments granted in Québec were preceded by an order of placement, whereas for judgments granted outside Québec, recognition by the court in Québec was necessary.

Since February 1, 2006, the *Civil Code of Québec* has stipulated that the adoption of a child domiciled outside of Québec must be granted by decision outside Québec or be granted by judicial decision in Québec. Whereas the judgment granted in Québec must be preceded by an order of placement, recognition by the court in Québec is required for decisions granted outside Québec, unless the adoption is certified as being in compliance with the Convention by the competent authority of the State in which it took place.

Thus, in addition to allowing for full-fledged recognition of adoption judgments granted under the Convention, the amendments made to the *Civil Code of Québec* extend the possibility for the court to recognize decisions granting adoptions made outside Québec to all such decisions, whether judicial or not.

Furthermore, the coming into force of the *Intercountry Adoption Act*, combined with the fact that the People's Republic of China has been bound by the Convention since January 1, 2006, have made the special rules provided for in the *Act respecting adoptions of children domiciled in the People's Republic of China*[31] obsolete in respect of all applications for adoption submitted after January 31, 2006.

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[31] Section 6 of this act stipulates that it shall cease to have effect on the day of the coming into force, in the People's Republic of China and in Québec, of an agreement respecting the international adoption of children which is binding on that State and on Québec, or when international adoptions between China and Québec become subject to the Convention.

Under the existing tax system, only individuals who hold a qualifying certificate for the adoption of a child domiciled in the People's Republic of China[32] or who have been granted a qualifying judgment[33] can claim the refundable tax credit for adoption expenses.

To take into account the changes made to the civil law system, the tax legislation will be adapted to stipulate that an individual may, for a given taxation year, claim the refundable tax credit for adoption expenses in respect of a child if, during that year, a qualifying decision is handed down in his favour in respect of the adoption of that child by that individual.

To this end, the expression "qualifying decision" in respect of the adoption of a child by an individual will refer, as the case may be, to:

- a judgment rendered by a court having jurisdiction in Québec in recognition of a decision rendered outside Québec authorizing the adoption of the child by the individual;
- a judgment authorizing adoption of the child by the individual by a court having jurisdiction in Québec, other than a judgment approving the proposed adoption of a child domiciled in the People's Republic of China;
- where the application for adoption was submitted before February 1, 2006 in respect of a child domiciled in the People's Republic of China, the certificate of registration, issued by the clerk of the Court of Québec, of the adoption of the child by the individual;
- the certificate of compliance with the Convention issued by the competent authority of the State in which the adoption of the child by the individual took place, unless the Minister of Health and Social Services has referred it to the courts.

These changes will apply as of the 2006 taxation year.

❑ Additions to the list of eligible adoption expenses

Although the tax system already covers most expenses associated with the adoption process, it does not cover certain expenses that arise due to a requirement imposed by a government authority. For example, the fees paid for the issuing of a foreign passport to the adopted child or to satisfy certain requirements of the federal Department of Citizenship and Immigration (opening of a file, medical examination, etc.) are not eligible.

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[32] Specifically, the certificate of registration issued by the clerk of the Court of Québec in the case of the adoption of a child by an individual which is given to this individual in accordance with the *Act respecting adoptions of children domiciled in the People's Republic of China*.

[33] Either a judgment rendered by a court having jurisdiction in Québec in recognition of a decision rendered outside Québec authorizing adoption, or a judgment authorizing adoption by a court having jurisdiction in Québec, other than a judgment approving the proposed adoption of a child domiciled in the People's Republic of China.

In order to better recognize the expenses incurred to adopt a child, the tax legislation will be amended to include, in the list of the expenses that are eligible for the refundable tax credit for adoption expenses, expenses that arise due to a requirement imposed by a government authority during the adoption of a child.

This amendment will apply as of the 2006 taxation year, and will also apply to any of a taxpayer's taxation years for which the Minister of Revenue can, on the date of the Budget Speech, calculate or recalculate the tax payable by that taxpayer for the year, and make an assessment or a reassessment, or establish an additional assessment.

Under the existing legislation, eligible adoption expenses for the purposes of the tax credit include judicial or extrajudicial expenses incurred to obtain a qualifying certificate or a qualifying judgment, as the case may be, in respect of the adoption of the child by an individual, hereinafter referred to as "legal fees."

To take into account the fact that the concept of qualifying decision will replace, beginning in the 2006 taxation year, the concepts of qualifying certificate and qualifying judgment, the list of expenses that are eligible for the tax credit will be amended to include, as a replacement for legal fees, the judicial, extrajudicial or administrative expenses incurred to obtain a qualifying decision in respect of the adoption of a child.

This amendment will apply as of the 2006 taxation year.

1.9 Conversion of the tax credit for new graduates working in remote resource regions

Few young people who leave their native region to pursue specialized studies return there to begin their professional career. This migration of young people to major urban centres is a social phenomenon of the utmost concern for the future of outlying regions, because it affects them demographically as well as socially and economically.

To fight such an exodus of young people and encourage the migration of new graduates to remote resource regions,[34] a refundable tax credit for new graduates who settle in a remote resource region to take a job related to their field of specialization has been provided for under the taxation system since 2003.

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[34] Remote resource regions means the territories included in the following administrative regions, regional county municipalities (RCMs) and municipality: Bas-Saint-Laurent (region 01), Saguenay–Lac-Saint-Jean (region 02), Abitibi-Témiscamingue (region 08), Côte-Nord (region 09), Nord-du-Québec (region 10) and Gaspésie–Îles-de-la-Madeleine (region 11); the Antoine-Labelle RCM, the Vallée-de-la-Gatineau RCM, the Mékinac RCM and the Pontiac RCM, and the municipality of La Tuque.

Briefly, to claim the tax credit for a given year, young graduates must reside in a remote resource region at the end of that year and must have held in the year, with an employer having an establishment in such a region, a job obtained within 24 months after the date on which they successfully completed their training course leading to a recognized diploma.[35]

For the purposes of the tax credit, which is capped at $8 000, 40% of the salary attributable to the first 52 weeks of work performed as part of an eligible job begun after March 11, 2003 may be taken into consideration. Consequently, a young graduate with an annual salary of at least $20 000 may claim the maximum amount of $8 000 in less than two years.

Under its current structure, the refundable tax credit for new graduates working in the resource regions is an incentive for young graduates to go to a region to acquire their first job experience in their field of specialization. However, the tax credit is not an incentive for them to settle in the region for several years.

To encourage young graduates to remain in the remote resource regions, the tax assistance will be granted, as of the 2006 taxation year, in the form of a non-refundable tax credit and spread out over a minimum of three years.

Essentially, the non-refundable tax credit will enable young graduates to reduce their income tax payable by up to $3 000 a year, without exceeding a total of $8 000, as long as they reside continuously in a remote resource region and hold in that region a job related to their field of specialization.

☐ Eligibility for the non-refundable tax credit

To claim the non-refundable tax credit for a given taxation year, an individual must reside in a remote resource region at the end of the year and be in one of the following situations:

— the individual started an eligible job in the taxation year, at any time during the 24-month period following the date on which the training course[36] leading to a recognized diploma was successfully completed, or obtained a recognized graduate degree in an educational program requiring an essay, dissertation or thesis to be written;

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[35] Recognized diplomas include a Diploma of Vocational Studies (DVS), an Attestation of Vocational Specialization (AVS), an Attestation of Vocational Education (AVE), a Diploma of College Studies (DCS) in technical training, an Attestation of College Studies (ACS) in technical training, a university diploma sanctioning a course of studies at the under-graduate or graduate level and certain attestations sanctioning a specialized post-secondary program.

[36] For greater clarity, training means courses and training periods, but excludes a period during which a student writes an essay, a dissertation or a thesis.

- the individual held an eligible job in the taxation year and resided in a remote resource region throughout the period beginning at the end of the last year of eligibility for the refundable or non-refundable tax credit for new graduates and ending at the end of the taxation year.

❑ Calculation of the amount of the tax reduction

The amount an individual may deduct in the calculation of the income tax otherwise payable for a given taxation year will be equal to the lowest of the following amounts:

- the income tax otherwise payable by the individual for the year;
- 40% of the salary or wages from an eligible job for the year;
- $3 000;
- the amount by which $8 000 exceeds the aggregate of the amounts obtained by the individual as the refundable or non-refundable tax credit for new graduates working in the resource regions for a taxation year prior to the given taxation year.

❑ Eligible job

The term "eligible job" will mean, with respect to individuals, an office or employment the duties of which are ordinarily performed in a remote resource region, where the duties are related to a business carried on by the employer in the region, and to the knowledge and skills acquired by an individual in the training course or the program having led to a recognized diploma.

Moreover, to take into account that some employers hire employees to perform duties related to a business they carry on in a remote resource region without actually having an establishment in the region, changes will be made to the eligibility conditions governing the refundable tax credit for new graduates working in the resource regions.

More specifically, the requirement that the employer's establishment where a new graduate ordinarily performs the duties relative to his office or employment, or to which the new graduate ordinarily reports, be located in a remote resource region will be replaced, in a declaratory manner, by a requirement that the duties of the new graduate's office or employment be ordinarily performed in a remote resource region and related to a business carried on by the employer in that region.

❑ Terms of application of the tax credit

• Order of application of non-refundable tax credits

Where certain non-refundable tax credits are not needed to completely eliminate an individual's income tax payable for a given taxation year, the unused portion of the tax credits may be carried forward to subsequent taxation years or transferred to the individual's spouse. To prioritize the tax credits of which the unused portion cannot be carried forward or transferred, the order in which the tax credits are to be applied is set forth in the tax legislation.

Given that the unused portion of the tax credit for new graduates cannot be carried forward or transferred to the spouse, the tax legislation will be amended to provide that the tax credit will be taken into account in the calculation of the individual's income tax otherwise payable, after the personal income tax credits, the tax credit for a person living alone, with respect to age or for retirement income, and the tax credit for union or professional dues.

• Individual who dies during the year

An individual who was residing in Québec in a remote resource region immediately prior to death will be deemed to have been residing in Québec in such a region at the end of December 31 of the year of death.

As a result of this presumption, the legal representative of a deceased person will be able to claim the non-refundable tax credit for new graduates working in the resource regions, in the income tax return to be filed on behalf of the deceased for the year of death.

• Individual who goes bankrupt during the year

In the case of an individual who goes bankrupt during a given calendar year, the rule that the bankrupt's taxation year is deemed to begin on the date of the bankruptcy and the current taxation year is deemed to end the day before that date will not apply for the purpose of calculating the non-refundable tax credit for new graduates working in the resource regions.

Accordingly, for the calendar year during which an individual goes bankrupt, the non-refundable tax credit for new graduates working in the resource regions may be claimed only in the post-bankruptcy tax return. Furthermore, for the purpose of calculating the tax credit, the full amount of the salary or wages received during the calendar year must be taken into account.

- **Salary received after the end of the year**

A presumption will be established to enable an individual who is living in Québec outside a remote resource region at the end of a given taxation year and who received, in the year, a salary or wages for an eligible job held in the previous taxation year, to deduct, in the calculation of the income tax otherwise payable for the year, the additional amount that would have been deductible for the purposes of the tax credit had the salary or wages been received during the previous taxation year.

This presumption will target, in particular, individuals who cease to hold an eligible job in the last few days of a year and who, at the beginning of the following year, receive a salary or wages attributable to that job.

- **Alternative minimum tax**

The alternative minimum tax applicable to an individual for a taxation year is equal to the amount by which an amount representing 16% of the portion, in excess of $40 000, of the individual's adjusted taxable income exceeds his basic minimum tax deduction.

The amount an individual will be able to deduct as the tax credit for new graduates working in the resource regions, in the calculation of the income tax otherwise payable for a given taxation year, will also be able to be taken into account in the calculation of the amount of the individual's basic minimum tax deduction for the year.

1.10 Calculation of earned income for the purposes of the measures intended exclusively for workers

Aside from the deductions specifically applicable to the calculation of income from an office or employment or business income, the taxation system provides for three measures intended exclusively for workers (employees or self-employed workers): the deduction for workers, the refundable tax credit for medical expenses and the refundable tax credit attributing a work premium.

The deduction for workers, which has applied since 2006, is designed to recognize that a portion of earned income must go toward paying work-related expenses. The deduction is equal to 6% of an individual's eligible earned income, up to $500 in 2006 and $1 000 as of the 2007 taxation year.[37]

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[37] The increase in the maximum amount is discussed in subsection 1.1.

For the purpose of calculating the deduction, the eligible earned income of an individual essentially corresponds to the remuneration included in the calculation of the individual's income from any office or employment, plus the amount by which the individual's income from businesses carried on alone or as a partner actively engaged in the businesses exceeds the individual's losses from the businesses.

The refundable tax credit for medical expenses is a measure aimed essentially at encouraging people with disabilities to enter the job market. For a large number of such people, entry into the job market presupposes the loss of the special benefits they receive under the last-resort assistance program to cover the special needs related to their state of health.

The tax credit, which is capped at $1 000,[38] is reducible at the rate of 5% for each dollar of an individual's family income that exceeds $19 325.[39] However, to be eligible for the tax credit, an individual's earned income must be at least $2 560. Briefly, an individual's earned income is comprised of his income from an office or employment and from a business the individual carries on alone or as a partner actively engaged in the business.

The refundable tax credit attributing a work premium is aimed at encouraging low- and middle-income workers to enter, re-enter or stay in the labour market.

The amount of the work premium varies according to household income and, in 2006, may reach $512.40 for a person living alone, $789.88 for a couple, $2 196 for a single-parent family and $2 821 for a couple with children.

To claim the premium, an individual who has a spouse must have at least $3 600 a year in earned income; an individual who does not have a spouse must have at least $2 400 a year in earned income. In this regard, an individual's earned income essentially corresponds to the aggregate of his income for the year from an office or employment and his business income.

Currently under the tax legislation, an individual may be obliged to calculate, for a given taxation year, income from an office or employment even if he did not hold an office or employment during the year.

To wit, it is stipulated that the amounts an individual is required to take into account in the calculation of income from an office or employment include, in certain circumstances, the value of benefits received or enjoyed by the individual because of, or in the course of, a previous office or employment.

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[38] It was announced, in Information Bulletin 2005-7 of December 19, 2005, that the Québec tax legislation would be amended to incorporate the measure relative to the increase from $750 to $1 000 in the refundable medical expense supplement, announced by the Minister of Finance of Canada in the federal government's Economic and Financial Update for 2005.

[39] This tax credit is calculated by taking into account 25% of the portion of expenses giving entitlement to the non-refundable tax credit for medical expenses and 25% of the amount claimed as the impairment supports deduction.

For example, a retiree must take into account, in the calculation of income from an office or employment, the value of benefits attributable to coverage under a medical care insurance plan, securities options, or an interest-free loan or loan at a reduced interest rate.

Moreover, the tax legislation also currently states that income earned by an individual as a member of a partnership constitutes business income, regardless of the extent to which the individual participates in carrying on the business.

Thus, the tax legislation will be amended to ensure that the deduction for workers, the refundable tax credit for medical expenses and the refundable tax credit attributing a work premium are granted solely to the taxpayers for whom these measures are intended.

More specifically, the tax legislation will be amended to stipulate that an individual whose income from an office or employment for a given year is comprised solely of the value of benefits received by reason of a previous office or employment may not take that income into account for the purposes of these measures.

In addition, the tax legislation will be amended to provide that business income or losses that may be taken into account for the purposes of the application of the refundable tax credit attributing a work premium must be from a business the individual carries on alone or as a partner actively engaged in the business.

These changes will apply as of the 2006 taxation year.

2. MEASURES CONCERNING BUSINESSES

2.1 Lower tax rate for small businesses

To make Québec companies more competitive, various measures designed to reduce the tax burden of Québec corporations were announced in the April 21, 2005 Budget Speech.

Accordingly, in addition to a substantial drop in the tax on capital payable by corporations, a preferential tax rate for small corporations (small tax rate) was also introduced, consisting of a small business deduction.

Briefly, since January 1, 2006, Canadian-controlled private corporations with paid-up capital of less than $10 million have enjoyed a reduced tax rate of 8.5% on the first $400 000 of annual income – the business ceiling – from an eligible business.[40]

To further improve the competitiveness of Québec SMEs, the small tax rate applicable to the business ceiling of corporations will again be reduced, from 8.5% to 8%, as of the day following the day of the Budget Speech.

For greater clarity, where the taxation year of a corporation includes the day of the Budget Speech, the rate reduction will apply in proportion to the number of days of such taxation year following that day.

2.2 Support for the forest sector

The forest industry is currently experiencing a difficult period. Many factors beyond Québec's control can explain the situation, including the value of the Canadian dollar and the softwood lumber conflict. Nonetheless, initiatives to encourage the recovery and future of the various sectors of this industry are justified.

First, the modernization of the forest products industry requires that companies make substantial investments in manufacturing and processing equipment. Because of the sector's precarious economic health, forestry companies are deferring these investments, which hampers their competitiveness.

Moreover, the public forest road network needs to be developed to enable forest managers to access forest stands, so as to meet the challenges imposed by sustainable development, maintaining the ecological integrity of the forest and the variety of uses associated with the forest.

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[40] Note that the $400 000 business ceiling is gradually reduced for corporations with paid-up capital between $10 and $15 million, and is totally eliminated for corporations with paid-up capital of $15 million or more.

In addition, the private forest already contributes to the supply of roundwood for processing companies. However, increased marketing of private forests would help mitigate the decline in availability of timber from the public forest.

To sustain these various players of the forestry sector, four temporary measures will be implemented. They will encourage investment in the modernization of processing plants, help provide companies with supplies at lower cost and recognize the particular situation of private woodlot owners.

2.2.1 Capital tax credit extended and raised to 15% regarding certain investments in the forest sector

In the April 21, 2005 Budget Speech, a capital tax credit was introduced to reduce the capital tax burden on corporations that make certain types of investments.

Briefly, this capital tax credit enables a corporation, other than a financial institution, that makes an eligible investment, during a taxation year, to claim a non-refundable capital tax credit for such taxation year, equal to 5% of the amount of such eligible investment.

Accordingly, a corporation can receive this capital tax credit, for a taxation year, up to the amount of capital tax otherwise payable by it for such taxation year. Where the capital tax credit exceeds the tax on capital otherwise payable by the corporation for the taxation year, the excess amount can be carried over to subsequent taxation years and applied against the tax on capital otherwise payable by it for such years.

Eligible investments for the purposes of this capital tax credit are manufacturing and processing equipment, i.e. assets of class 43.[41] In addition, these assets must, subject to certain transition rules, be acquired before January 1, 2008.

The primary forest product industry is experiencing a difficult time. To maintain and encourage the recovery of activities in this sector, changes regarding the eligible investments made in this sector will be made to the capital tax credit.

To achieve these objectives, the rate of the capital tax credit will be raised to 15% regarding eligible investments in this sector, and the period during which such investments can be made will be extended by two years.

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[41] However, these assets must satisfy certain conditions to qualify as an eligible investment, in particular the obligation that they begin to be used within a reasonable time during a period of at least 730 days, solely in Québec and mainly in the course of carrying on a business. Similarly, the assets must be new.

❑ Investments eligible for the enhancements

The investments eligible for the rise in rate of the capital tax credit and the extended eligibility period are manufacturing and processing equipment, i.e. assets of class 43, used mainly in the following activities:

— sawmill and wood preservation activities;

— activities involved in the making of veneers, plywood and reconstituted wood products, excluding the making of wood structural products;

— the activities of pulp, paper and cardboard plants.

To that end, sawmill and wood preservation activities, activities involved in the making of veneers, plywood and reconstituted wood activities, as well as those of pulp, paper and cardboard plants will be the same as those grouped under codes 3211, 3212 (excluding sub-code 321215) and 3221 of the North American Industry Classification System (NAICS codes). The list of these activities is appended.

NAICS codes cover establishments whose chief activity consists in carrying out certain specific activities. This notion of establishments whose chief activity consists in carrying out certain specific activities will not be used to qualify an asset as an eligible investment. Rather, this relative importance test will be applied to the use that is made of the asset. Accordingly, it will simply suffice, as was mentioned above, that the asset be used chiefly in the activities grouped under codes 3211, 3212 (excluding sub-code 321215) and 3221, regardless of whether or not such activity is the chief activity of the establishment in which the asset is used. For greater clarity, Revenu Québec will administer this test of relative importance.

• Period of eligibility for the higher rate of the capital tax credit

The forest sector assets covered by the rise in the rate of the capital tax credit to 15% will have to be acquired after the day of the Budget Speech and before January 1, 2010, unless:

— they are acquired in accordance with a written obligation contracted no later than the day of the Budget Speech;

— construction of these assets, by the taxpayer or on his behalf, had started on the day of the Budget Speech.

- **Other application details**

For greater clarity, the other application details of the capital tax credit will also apply to the eligible investments covered by the higher rate and extension of the eligibility period.

2.2.2 Introduction of a temporary refundable tax credit for the construction of public access roads and bridges in forest areas

To foster the development of the forest road network, a temporary refundable tax credit for the construction or major repair of public access roads and bridges in forest areas will be implemented.

Briefly, an eligible corporation that incurs eligible expenses regarding the construction or major repair of eligible access roads or bridges, during a taxation year, may claim a refundable tax credit, for such year, corresponding to 40% of the amount of such eligible expenses.

☐ Eligible corporation

For the purposes of this tax credit, a corporation, other than an excluded corporation, that, during a taxation year, carries on a business in Québec, has an establishment there and is a party to timber supply and forest management agreement (TSFMA), a forest management agreement (FMA) or a forest management contract (FMC) reached with the ministère des Ressources naturelles et de la Faune (MRNF) may, under certain conditions, receive the tax credit for such year.

In addition, a corporation, other than an excluded corporation, that, during a taxation year, carries on a business in Québec and has an establishment there through a partnership may also qualify as an eligible corporation for such taxation year if it is a member of such partnership at the end of a fiscal year of the latter ending during such taxation year and if such partnership is a party, during such fiscal year, to a TSFMA, an FMA or an FMC reached with the MRNF.

☐ Eligible access road and bridge

For the purposes of this tax credit, the expression "eligible access road and bridge" means an access road or bridge in a forest area that an eligible corporation or a partnership of which it is a member constructs or has constructed and regarding which it has obtained an eligibility certificate from the MRNF.

Essentially, an eligibility certificate will be issued by the MRNF where the road satisfies the following conditions or, in the case of a bridge, where such bridge is part of such a road:

— its expected lifetime is greater than three years;

— it is constructed on Québec public land;

— it forms a development road, or part of such a road, enabling forest management work, including timber harvesting, and from which secondary roads lead;

— it appears on an annual forest operations plan submitted to the MRNF as part of a TSFMA, an FMA or an FMC to which the eligible corporation or the partnership of which it is a member, as the case may be, is a party.

The expression "eligible access road and bridge" also means an access road or a bridge regarding which the MRNF has issued an eligibility certificate according to which it has undergone major repair.

The MRNF will ensure that the access road or bridge actually satisfies these eligibility conditions and that the work done complies with what is shown in the annual forest operation plan. If need be, the MRNF may revoke the eligibility certificate initially issued regarding an access road or a bridge.

❑ Eligible expenses

The expression "eligible expenses" of an eligible corporation, for a taxation year, means all the expenses it incurs, during such year, and directly attributable to the work listed in the following table concerning the construction of eligible access roads or bridges.

TABLE 1.6

WORK RELATING TO THE CONSTRUCTION OF ELIGIBLE ACCESS ROADS AND BRIDGES

Roads	Bridges
– Impact studies	– Impact studies
– Localization	– Geotechnical studies
– Plans and specifications	– Localization
– Clearing	– Plans and specifications
– Grubbing	– Foundation unit
– Preparation	– Superstructure
– Back-filling	– Apron
– Drilling and dynamiting	– Approach dyke
– Subbase course	– Drilling and dynamiting
– Snow removal	– Signs
– Signs	– Supervision
– Culverts	
– Supervision	

The eligible expenses of an eligible corporation, for a taxation year, will also include the expenses it incurs during such year and directly attributable to major repair work relating to an access road or a bridge regarding which the eligible corporation holds an eligibility certificate from the MRNF. However, expenses incurred for preventive maintenance and current maintenance of an existing road or bridge will not give rise to the tax credit.

For greater clarity, eligible expenses include only salaries attributable to the construction or major repair of eligible access roads and bridges, the cost of goods consumed in the course of construction or major repair of eligible access roads and bridges, as well as the portion of the cost of a contract attributable to the construction or major repair of eligible access roads and bridges. Accordingly, the costs associated with the allocation to such construction or such repair by an eligible corporation of a resource belonging to it, such as a truck, are limited to the wages of the operator and the cost of the goods consumed, such as fuel, in the course of the use of such resource. The economic cost relating to the allocation of such resource, such as the depreciation of the truck, is therefore not eligible since no expenses are incurred regarding such item.

Moreover, the eligible expenses of an eligible corporation, for a taxation year also include its share of the eligible expenses incurred by a partnership of which it is a member at the end of the fiscal year of such partnership ending in such taxation year. The share of eligible expenses incurred by a partnership during a fiscal year and attributable to an eligible corporation will depend on the share of the income or loss of such partnership attributable to it for such fiscal year.

Lastly, eligible expenses must be reduced by the amount of any government assistance, any non-government assistance and any profit or gain, according to the usual rules.

☐ Rate of the refundable tax credit

The rate of the tax credit an eligible corporation may claim is 40%.

☐ Other application details

An eligible corporation wishing to claim this tax credit, for a taxation year, must enclose with its tax return, for such year, a form prescribed by Revenu Québec as well as a copy of the eligibility certificate issued by the MRNF.

In addition, the eligible expenses regarding which a tax credit may be claimed by an eligible corporation, must have been paid at the time the tax credit is claimed.

Moreover, this tax credit may be applied against any instalment payments that must be made by an eligible corporation, for income tax and the tax on capital, according to the usual rules.

Lastly, if the eligible expenses for which a tax credit is granted are refunded to the eligible corporation or to the partnership of which it is a member, in whole or in part, the excess tax credit allowed may be recovered by means of a special tax.

☐ Excluded corporation

An "excluded corporation", for a taxation year, means:

- a corporation that is tax-exempt for the year;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

❑ Period of eligibility of expenses

Expenses relating to the construction or major repair of eligible access roads and bridges must be incurred by a corporation or a partnership, as the case may be, after the day of the Budget Speech and before January 1, 2011 if:

— they are incurred in accordance with what appears in an annual forest operation plan submitted to the MRNF before January 1, 2010; and

— construction or major repair of the eligible access road or bridge by the corporation or partnership, as the case may be, or on behalf of either of them, started before January 1, 2010.

2.2.3 Income averaging for forest producers

To encourage the production and marketing of timber in private forests, a tax deferral mechanism dedicated to owners of private woodlots will be introduced. Briefly, this deferral will allow the averaging of a portion of the income derived from the sale, to a buyer with an establishment in Québec, of timber relating to the operation of a private woodlot, for a period of not more than four years.

More specifically, the legislation will be amended to stipulate that an eligible owner of a private woodlot may deduct, in calculating his taxable income for a taxation year ended no later than December 31, 2009, an amount not exceeding 80% of his income from the sale of timber relating to the operation of such woodlot for such taxation year.

❑ Eligible owner

For the purposes of this measure, an eligible owner, in respect of a woodlot, means an individual or an eligible corporation recognized as a forest producer by the MRNF in respect of such woodlot.

An individual or an eligible corporation that, during a taxation year, carries on a business in Québec through a partnership, may also qualify as an eligible owner for such taxation year, if it is a member of such partnership at its fiscal year-end ending during such taxation year and if such partnership is recognized by the MRNF as a forest producer under the *Forest Act*.

Briefly, to be recognized by the MRNF as a forest producer, an owner must own at least 4 hectares (10 acres or 12 square arpents) of forest land all in one piece, with a forest management plant (FMP) certified by a forest engineer to comply with the regulations of the Agence régionale de mise en valeur des forêts privées. Furthermore, in the case of a private forest of at least 800 hectares all in one piece, the owner must be a member in good standing of a forest fire protection organization.

Eligible corporation

An "eligible corporation", for a taxation year, means a Canadian-controlled private corporation with paid-up capital of no more than $10 million for its most recent taxation year.

For greater clarity, the paid-up capital used in the course of determining the eligibility of a corporation is that of all the corporations of a group of corporations associated with each other at any time of the taxation year, calculated on a world basis.

Inclusion in the calculation of income

The amount of total income of an eligible owner, or of a partnership of which he is a member, from the sale of timber relating to the operation of a private woodlot, for a taxation year, will continue to be included in the calculation of the income of such eligible owner or of such partnership for such taxation year.

For greater clarity, this measure will not affect the application details of the logging tax. Accordingly, the total income of an eligible owner, or of a partnership of which it is a member, from the sale of timber relating to the operation of a private woodlot, for a taxation year, will continue to be included in the calculation of the income of such eligible owner or of such partnership from logging, for the taxation year in which such logging was carried out.

Deduction in the calculation of taxable income

An amount, not exceeding 80% of the income of the eligible owner, or of his share of the income of a partnership of which he is a member, and derived from the sale, to a buyer with an establishment in Québec, of timber relating to the operation of a private woodlot, for a taxation year, may be deducted in calculating his taxable income, for such taxation year. For greater clarity, the income of an eligible owner derived from the sale to individuals, for instance for firewood, will not give rise to a deduction in the calculation of taxable income.

To benefit from such a deduction in calculating his taxable income, for a taxation year, an eligible owner must enclose with his tax return, for such taxation year, a copy of the valid forest producer certificate issued by the MRNF in respect of such woodlot.

❑ Inclusion in the calculation of taxable income

Any amount thus granted as a deduction in the calculation of the taxable income of an eligible owner for a taxation year must be included, in whole or in part, in the calculation of the taxable income of such eligible owner for one of the four taxation years following the one in which such deduction is allowed.

However, the total amount of such deduction must have been included in the calculation of the income of the eligible owner no later than the fourth taxation year following the one in which the deduction is allowed.

❑ Integrity measure

In the event that an eligible owner, or a partnership of which he is a member, alienates the private woodlot regarding which such owner or such partnership was recognized as a forest producer by the MRNF, the portion of the amount granted as a deduction in the calculation of the taxable income of the eligible owner for a given taxation year not previously included in the calculation of his taxable income, for a taxation year following such given year, must be included, in full, in calculating his taxable income for the taxation year in which the private woodlot is alienated.

❑ Period of eligibility of the income derived from the sale of timber from a private woodlot

To give rise to the averaging measure, the income of an eligible owner derived from the sale of timber from a private woodlot must have been earned within a taxation year of the eligible owner, or within a fiscal year of a partnership of which he is a member, ended after the day of the Budget Speech and no later than December 31, 2009.

2.2.4 Measures to reduce the cost of silvicultural investments

The MRNF will implement measures designed to reduce the costs assumed by the forest industry and to foster silvicultural investments over the coming months. The financial impact of these measures is $135 million over the next four years, including $30 million in 2006-2007 and $25 million in 2007-2008.

These measures will concern, among other things, the amount of forest royalties each agreement holder must pay,[42] which amount is determined according to the *Regulation respecting forest royalties*, as stipulated by the *Forest Act*.

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[42] A timber supply and forest management agreement (TSFMA), a forest management contract (FMC) or a forest management agreement (FMA) reached with the MRNF.

The amount of forest royalties is determined according to a unit rate, for each fee zone, set on April 1 of each year by the Minister of Natural Resources and Wildlife.

As of 2006-2007, the MRNF will take a variety of measures to increase funding for certain initiatives in public forests whose costs are assumed by the agreement holders. In addition, the MRNF will take into consideration certain marketing costs of timber from private forests also assumed by agreement holders.

Accordingly, changes will be made to the calculation details of forest royalties. Among others:

— the restriction relating to the exclusion of costs tied to silvicultural work planning and monitoring will be withdrawn. Accordingly, the costs relating to these items can be included in calculating royalties payable by an agreement holder;

— the eligibility rate of the execution cost for treatments with no immediate effect on forest yields, such as work intended to reduce, in the medium term, the vulnerability of evergreen forests to spruce budworm epidemics, will be raised from 90% to 100%. Accordingly, the entire amount of such costs, subject to the unit limit stipulated in this regard by the Minister of Natural Resources and Wildlife, may be included in calculating royalties payable by an agreement holder.

These changes will apply as of the date indicated in the order-in-council giving effect to them.

Moreover, the MRNF will soon release other measures designed to encourage silvicultural investments and reduce the costs assumed by the forest industry, together with the associated terms and conditions.

2.3 Introduction of a temporary refundable tax credit for the acquisition of pig manure treatment facilities

The pork industry is facing increasing environmental demands, particularly regarding the treatment of pig manure. Pig producers must therefore invest heavily to satisfy environmental standards.

There are currently a variety of types of manure treatment technologies. These technologies can be summed up as the addition of processing equipment or the conversion or adaptation of a structure. However, such facilities would entail significant costs for pig producers.

In this context, a temporary refundable tax credit will be implemented, for a period of four years, and will apply to the acquisition of pig manure treatment facilities.

Accordingly, an eligible taxpayer who incurs eligible expenses to acquire eligible facilities, during a taxation year, may henceforth claim a refundable tax credit, for such year, corresponding to 30% of the amount of such eligible expenses.

❑ Eligible taxpayer

In general, an individual or a corporation, other than an excluded corporation, that, during a taxation year, carries on a farm business Québec and is recognized as a pig producer by the ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ), may, under certain conditions, receive the tax credit for such year.

A taxpayer, other than an excluded corporation, that, during a taxation year, carries on a business in Québec through a partnership may also qualify as an eligible taxpayer, for such taxation year, if it is a member of such partnership at its fiscal year-end ending during such taxation year and if such partnership carries on a farm business in Québec and is recognized as a pig producer by the MAPAQ.

❑ Eligible facility

The expression "eligible facility" means a facility that an eligible taxpayer or a partnership of which he is a member acquires, and regarding which he or it obtained an eligibility certificate from the MAPAQ according to which the facility consists of equipment or a component satisfying certain eligibility criteria validated by the MAPAQ.

To that end, the MAPAQ will issue an eligibility certificate regarding an eligible facility that satisfies the following conditions:

— it is stipulated and described in plans and specifications by an engineer and filed with the MAPAQ before the work begins;

— it is installed in Québec in an establishment of a farm operator producing pork and recognized as such by the MAPAQ;

— it is not eligible for the Programme Prime-Vert administered by the MAPAQ;

— it is intended to treat manure to concentrate the fertilizing components in smaller volumes for easier disposal;

- it consists:
  - either of equipment needed for the treatment of the manure;
  - or of a component or work needed for the implementation of an infrastructure facilitating the treatment of the manure. In such a case, the MAPAQ will determine the additional items needed to enable such infrastructure to satisfy the conditions mentioned below. The MAPAQ will also determine the share, in percentage terms, of each of these items attributable to the implementation of the manure treatment process. For greater clarity, while the determination of these additional items will be the responsibility of the MAPAQ, the determination of the costs attributable to these additional items will fall within the exclusive jurisdiction of Revenu Québec.

In addition, the MAPAQ will see that the facilities acquired, once installed in the farm establishment of the taxpayer, or of the partnership as the case may be, comply with what is stipulated and described in the plans and specifications prepared by an engineer and filed with the MAPAQ before the beginning of the work, to ensure that the facilities do in fact satisfy the eligibility conditions. Accordingly, the MAPAQ may, if need be, revoke the eligibility certificate initially issued.

❑ Eligible expenses

The expression "eligible expenses" of an eligible taxpayer, for a taxation year, regarding an eligible facility, means all the expenses it incurred, during such year, and directly attributable to the acquisition of an eligible facility and to its installation.

Moreover, the eligible expenses of an eligible taxpayer for a taxation year also include its share of the eligible expenses incurred by a partnership of which it is a member at the end of the partnership's fiscal year ending in such taxation year. The share of eligible expenses incurred by a partnership during a fiscal year and attributable to an eligible taxpayer will depend on the share of the income or loss of such partnership attributable to it for such fiscal year.

Lastly, eligible expenses must be reduced by the amount of any government assistance, any non-government assistance and any profit or gain, according to the usual rules.

❑ Amount of the refundable tax credit

As specified above, the rate of the tax credit an eligible taxpayer may receive will be 30%.

More specifically, the amount of the refundable tax credit an eligible taxpayer may receive, for a taxation year, regarding an eligible facility, will be equal to 30% of all the eligible expenses he incurred in such year and of his share of such expenses incurred by a partnership of which he is a member at the end of the fiscal year of the partnership ending in such year, if applicable.

❑ Cap on the refundable tax credit

This tax credit will be capped, for each farm establishment, at $200 000, for the entire period, described below, in respect of which eligible expenses may be incurred.

For greater clarity, the cap on the tax credit, in relation to the eligible expenses incurred by a partnership, will also be limited to $200 000 per farm establishment.

❑ Other application details

If eligible expenses for which a tax credit is granted are paid back to an eligible taxpayer or to the partnership of which he is a member, in whole or in part, the tax credit thus granted will be recaptured by means of a special tax.

Moreover, this tax credit may be applied against any instalment payments that must be made by an eligible taxpayer, for income tax, and for the tax on capital where the eligible taxpayer is a corporation, according to the usual rules.

An eligible taxpayer wishing to claim this tax credit, for a taxation year, must enclose with its tax return, for such year, a form prescribed by Revenu Québec together with a copy of the eligibility certificate issued by the MAPAQ.

Lastly, the eligible expenses regarding which a tax credit is claimed, by an eligible taxpayer, must have been paid at the time the tax credit is claimed.

❑ Excluded corporation

An "excluded corporation", for a taxation year, means:

- a corporation that is tax-exempt for the year;
- a Crown corporation or a wholly-controlled subsidiary of such a corporation.

☐ Period of eligibility of expenses

The expenses relating to the acquisition of eligible facilities and their installation must be incurred by an individual, a corporation or by a partnership, as the case may be:

- after the day of the budget speech and before April 1, 2010;
- after March 31, 2010 and before April 1, 2011 if:
  - they are incurred in accordance with what appears in an eligibility certificate application submitted to the MAPAQ before April 1, 2010; and
  - the installation of the eligible facilities by the individual, corporation or partnership, as the case may be, or on behalf of either of them, had begun before April 1, 2010.

2.4 Renewal of and improvement to the refundable tax credit for on-the-job training periods

The refundable tax credit for on-the-job training periods encourages students and apprentices to upgrade their professional qualifications and supports the efforts of businesses that help develop their skills.

Briefly, a taxpayer can, under certain conditions, claim a refundable tax credit for an on-the-job training period when, among other things, a student completes an eligible training period in a business he carries on in Québec or that a partnership of which he is a member carries on in Québec (eligible employer). The rate of the tax credit is 30% if the eligible employer is a corporation and 15% in other cases. Moreover, the maximum amount of the tax credit applicable to training periods completed in remote resource regions (eligible regions) is double the basic tax credit.

To enable all Québec entrepreneurs to receive a more generous refundable tax credit for on-the-job training periods, it will be made permanent and the distinction based on where the training period is carried out will be withdrawn in favour of a general increase.

2.4.1 Tax credit made permanent

As was announced in Information Bulletin 2005-7 of December 19, 2005, the refundable tax credit for on-the-job training periods is stipulated to end regarding training periods beginning after December 31, 2006. At the same time, it was mentioned that the ministère des Finances would assess this tax credit jointly with the ministère de l'Éducation, du Loisir et du Sport and with Emploi-Québec.

The assessment has been completed and, given the significant benefits arising from the tax credit, both for interns and for companies that hire them, this measure will be made permanent.

In this context, the tax legislation will be amended so that the refundable tax credit for on-the-job training periods also applies to qualified training periods that begin after December 31, 2006.

2.4.2 Improvement to the tax credit

To encourage more employers to offer training periods to students, throughout Québec, the maximum amount of the refundable tax credit for on-the-job training periods will be raised.

Briefly, the tax credit is calculated on the basis of the eligible expenditure regarding an eligible intern, which consists of the wages and salaries the intern received in the course of an eligible training period, and those an eligible supervisor received for the hours he or she devoted to overseeing the intern. However, such expenditure is limited by a weekly cap and by a maximum hourly rate.

The weekly cap of the eligible expenditure on which the tax credit is calculated will be raised. The same will also apply to the maximum hourly rate of salary paid to an eligible intern that can be considered in calculating the eligible expenditure.

☐ Weekly cap of the eligible expenditure

Under existing rules, should a training period not be carried out in an eligible region, the cap on the eligible expenditure that applies regarding an eligible intern is:

- $625 per week, if the eligible intern is:
  - an individual enrolled in the apprenticeship scheme implemented under the *Act to foster the development of manpower training*; or
  - an individual enrolled as a full-time student in a vocational training program or a program designed for the social and vocational integration of young people that stipulates the completion of one or more training periods lasting a total of at least 140 hours during the program; and
- $500 per week for all other eligible interns.

The tax legislation will be amended to raise the eligible expenditure caps applicable regarding an eligible intern of an eligible employer who completes an eligible training period, at a given time of a taxation year or fiscal year, as the case may be, in an establishment of the eligible employer. Accordingly, the weekly caps on eligible expenditure that are currently $625 or $500, as the case may be, will be raised to $750 and $600 respectively.

☐ Maximum hourly rate

For the purposes of calculating the tax credit, the maximum hourly rate for wages and salaries that an eligible employer may consider regarding an eligible intern is $15, though the actual hourly rate may exceed this amount.

The tax legislation will accordingly be amended to raise, from $15 to $18, the maximum hourly rate of wages and salaries that an eligible employer may consider for the purposes of determining the tax credit regarding an eligible intern who completes an eligible training period at a given time of a taxation year or fiscal year, as the case may be, in an establishment of the eligible employer.

☐ Application date

These changes will apply regarding an eligible expenditure incurred after December 31, 2006, regarding an eligible training period beginning after that date.

2.4.3 Standard application of the tax credit in all regions

Under existing rules, where eligible training periods are completed in an eligible region, the weekly eligible expenditure caps for the purposes of the tax credit are respectively $1 250 and $1 000, and the maximum hourly rate of wages and salaries that an eligible employer may consider regarding an eligible intern is $25.

As a corollary to the permanence of the tax credit and the improvement described above, the weekly eligible expenditure caps and the maximum hourly rate that apply exclusively to training periods completed in one of the eligible regions will be abolished. Consequently, the new weekly caps and the new maximum hourly rate will also apply to such training periods.

For greater clarity, all the other parameters currently stipulated for the purposes of the tax credit for on-the-job training periods remain unchanged.

This change will apply regarding an eligible expenditure incurred after December 31, 2006, regarding an eligible training period beginning after that date.

2.5 Adjustments to refundable tax credits for R&D

2.5.1 *Simplification and improved harmonization with federal legislation*

Québec's tax system contains many measures designed to increase scientific research and experimental development (R&D) activities in Québec. The refundable tax credits granted by the government in this field are the focal point of these incentives.

In this regard, Québec's system of tax assistance for R&D seeks to encourage taxpayers that carry on a business in Québec, and have an establishment there, to carry out or increase R&D work relating to the carrying on of such business established in Québec, in accordance with the government's objective of increasing R&D spending to 3% of GDP by 2010.

In addition, like the other refundable tax credits intended for businesses, the refundable tax credits for R&D are designed to foster economic spin-offs for Québec, in particular in the form of job creation or greater investment.

These tax credits have been in place for many years and the fiscal policy that underlies them needs to be updated to reflect the reality of the new century, more specifically in the context of the government economic development strategy that was released in 2005.[43]

In this context, the primary objective of the amendments that will be made to the tax legislation is to enable greater participation by the institutional community in R&D projects that give rise to tax assistance, in that such assistance will no longer be reduced because of such participation.

Moreover, in accordance with the government's major concerns regarding simplification of the tax system, the thinking and fiscal policy choices regarding changes to the system of tax assistance for R&D have been guided by a concern to enhance efficiency and simplicity of application of the personal and corporate tax systems, among others by aligning Québec's mechanism of tax assistance for R&D more closely with that offered under federal tax legislation.[44]

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[43] MINISTÈRE DU DÉVELOPPEMENT ÉCONOMIQUE, DE L'INNOVATION ET DE L'EXPORTATION, *L'Avantage québécois – Stratégie gouvernementale de développement économique*, 2005.

[44] MINISTÈRE DES FINANCES DU QUÉBEC, *Simplification of the Tax System*, July 2004.

❑ Current context

Québec's system of tax assistance for R&D currently has four refundable tax credits. The first refundable tax credit, the "R&D salary" tax credit, applies to salaries that a person pays to its employees, when it does its R&D work in Québec or, in particular, to half the amount of the research contract when the R&D work is awarded to a subcontractor at arm's length with such person. The basic rate of this refundable tax credit is 17.5%, but it can vary from 17.5% to 37.5% in the case of a Canadian-controlled private corporation that is an SME.[45]

The second refundable tax credit, the tax credit for "university R&D", applies to 80% of the amount of a research contract, where the R&D work is sub-contracted to an eligible university entity, an eligible public research centre or an eligible research consortium to which the person awarding such R&D work is not related. The rate of this tax credit is 35% and it applies to all eligible R&D expenditures.

The third refundable tax credit, the tax credit for "pre-competitive R&D", concerns research carried out under a partnership.[46] This refundable tax credit relates, as far as research carried out under a partnership is concerned, to the R&D work that a number of persons agree to carry out in Québec or to have done for them in Québec under a research partnership agreement. The rate of this tax credit is 35% and it applies to all eligible R&D expenditures.[47]

The fourth refundable tax credit, the tax credit for an "R&D consortium", concerns essentially the dues and fees that a person pays to an eligible research consortium, and that can be reasonably considered to relate to the R&D work done by the consortium in relation with a business of such person. The rate of this tax credit is 35%.

These four refundable tax credits for R&D represent a total annual tax expenditure for the government of $538 million, consisting almost exclusively of the R&D salary tax credit which accounts for 95% of this tax expenditure.[48]

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[45] An SME can benefit, for a taxation year, from this difference in rates if it is a Canadian-controlled private corporation whose assets, including the assets of associated corporations calculated on a world basis, are less than $50 million for the preceding taxation year. More specifically, where such assets are less than $25 million, the rate is 37.5%, which is reduced linearly to 17.5% where assets vary from $25 million to $50 million. The higher rate applies solely to the first $2 million of R&D spending.

[46] The tax credit applying to a catalyst project or an environmental technology innovation project, abolished many years ago, concerned R&D work carried out under any of these projects covered by a Cabinet decision no later than December 31, 1996.

[47] Where the R&D work is subcontracted to a person or a partnership with whom the taxpayer is at arm's length, the tax credit applies to 80% of the amount of the research contract.

[48] GOUVERNEMENT DU QUÉBEC, *Tax Expenditures – 2005 Edition*, April 2005, Part I.

❑ Contribution rules

To prevent tax assistance from being attributed regarding expenditures incurred by an eligible university entity, an eligible public research centre or an eligible research consortium (prescribed research entity), the tax legislation includes restrictions applicable to the calculation of the refundable tax credits for R&D other than the R&D consortium tax credit, i.e. the contribution rules.

In general, the contribution rules were put in place so that a taxpayer who participates in an R&D project carried out by means of a research contract involving a prescribed research entity is not entitled to a tax credit for R&D if he does not fully assume the financial burden of the project, for instance, where a prescribed research entity participates in the funding of the R&D project by means of a contribution consisting of a capital outlay, a loan, the acquisition of title of ownership or otherwise.

However, over the years, the contribution rules have been streamlined to allow certain transactions that do not run counter to fiscal policy objectives.

More specifically, one of these streamlining measures allows a person who participates in an R&D project, other than the taxpayer who initiates the project, to assume the R&D expenditures relating to such project. In this case, to satisfy the fiscal policy objectives, the eligible expenditure for the purposes of the tax credits for R&D must be reduced by the amount of such contribution the taxpayer obtained, is entitled to obtain or may reasonably expect to obtain regarding the R&D project.

❑ Change to the refundable tax credit for university R&D

Initially, the enhanced tax assistance granted by the tax credit for university R&D was designed to encourage business-university synergy.

In the March 29, 2001 Budget Speech, a streamlining measure was added to the contribution rules to adapt the tax legislation to the Québec government's new science policy. Accordingly, the science policy encouraged the creation of spin-offs that, working with prescribed research entities, could continue university research and commercialize it. Tax assistance is thus allowed for R&D projects initiated by the institutional community and subsequently transferred to the socio-economic sphere.

Briefly, as a result of the streamlining a prescribed research entity may be a shareholder of a corporation, without depriving the latter of its entitlement to the R&D tax credits. However, to satisfy one of the objectives of tax assistance for R&D, i.e. not conferring tax assistance on public research institutions, the eligible expenditure for the purposes of this component of the tax credit must generally be reduced by an amount corresponding to the participation of the public research entities in the continuation of the R&D work they themselves initiated.

Moreover, where the amount paid to the corporation consists of a technology transfer, a further streamlining measure results in this amount not reducing eligible expenditures for the purposes of the tax credits for R&D.

In certain cases, the result of such restrictions is to completely offset the tax assistance. Accordingly, these rules, which are necessary to maintain the integrity of the tax credit for university R&D, impede efforts aimed at the development of practical applications for university research findings and, in this context, such an objective cannot be achieved with the tax credit for university R&D.

• Withdrawal of spin-offs

The tax legislation will accordingly be amended so that an R&D project that that comes under the component that involves the development of practical applications for research findings will no longer be eligible for the tax credit for university R&D. Accordingly, the streamlining measures currently stipulated where a prescribed research entity, or a person not at arm's length with such entity, purchases shares of the capital stock of the corporation that awards it the execution of the work of such R&D project, will be eliminated.

As a corollary, the tax credit for R&D salary will be enhanced so that an R&D project that comes under the component that involves the development of practical applications for research findings of the tax credit for university R&D may be eligible for the R&D salary tax credit, as it will be amended, to authorize the participation of players from the institutional community in R&D projects, without reducing the eligible expenditure for the purposes of this tax credit.

• R&D project initiated by an entrepreneur

Moreover, in the case of an R&D project initiated by an entrepreneur, the tax credit for university R&D responds adequately to its objective of encouraging synergy between entrepreneurs and the institutional research community. In this context, this tax credit will remain unchanged regarding such projects.

❑ Change to the refundable tax credit for pre-competitive R&D

The tax credit for pre-competitive R&D provides enhanced tax assistance to encourage entrepreneurs to group together to carry out R&D projects that they probably would not have undertaken alone. Such partnerships that give rise to this tax credit may, or may not, involve players from the institutional community, called hereunder "public-private partnership" or "private-private partnership", as the case may be.

- **Public-private partnership**

Public-private partnerships are encouraged by the government economic development policy. However, as in the case of the refundable tax credit for university R&D, the effect of the rules of the tax credit for pre-competitive R&D may be that no tax assistance is granted for R&D projects in which institutional players are involved. These rules result in a reduction of the eligible expenditure by an amount equivalent to that of the participation of such players, even to the extent of reducing tax assistance to zero, which constitutes, once again, an obstacle to public-private partnerships in carrying out R&D work.

In this context, the enhancement described above regarding the component that involves the development of practical applications for research findings of the tax credit for university R&D will also apply to public-private partnerships. The tax legislation will accordingly be amended so that an R&D project carried out as part of a public-private partnership will no longer be eligible for the tax credit for pre-competitive R&D. Such an R&D project may thus be eligible for the tax credit for R&D salary, as it will be amended, in order to authorize the participation of players from the institutional community in R&D projects, without reducing the eligible expenditure for the purposes of this tax credit.

☐ Introduction of a refundable tax credit for private partnership pre-competitive research (tax credit for "private partnership R&D")

- **Abolition of the tax credit for pre-competitive R&D**

Research carried out by a private-private partnership also represents one of the focal points of the fiscal policy underlying the system of refundable tax credits for R&D. According to the existing rules, such partnerships can avail themselves of the tax credit for pre-competitive R&D. However, in view of the new tax treatment that will apply regarding public-private partnerships, removing much of the need for having the tax credit for pre-competitive R&D, the introduction of a new tax credit open only to private-private partnerships, as opposed to an overhaul of the tax credit for pre-competitive R&D, will help to simplify the tax system because this new tax credit may be adapted to the target situations.

Consequently, the tax credit for pre-competitive R&D will be abolished for the future but will remain in force regarding an agreement that constitutes a partnership contract as part of a pre-competitive research project regarding which the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE) has issued a certificate no later than the day of the Budget Speech, or under an agreement for which an application has been submitted to the MDEIE, no later than that day, to obtain recognition as a partnership contract as part of a pre-competitive research project.[49]

The tax credit will be replaced with the refundable tax credit for private partnership research pre-competitive (tax credit for "private partnership R&D") that will apply to R&D projects that exclusively involve a private-private partnership.

• Terms and conditions of the tax credit for private partnership R&D

Subject to the specific items mentioned below, the terms and conditions of the tax credit for private partnership R&D will be the same as those stipulated for the tax credit for pre-competitive R&D.[50]

Accordingly, like the tax credit for pre-competitive R&D, the object of the tax credit for private partnership R&D will be pre-competitive research done in partnership. The tax credit will relate, as far as research carried out in a private-private partnership is concerned, to the R&D work that a number of persons agree to carry out in Québec or have carried out for their benefit in Québec under a research partnership agreement.

In addition, the rate of this tax credit will be 35% and will apply to all eligible R&D expenditures or to 80% of the amount of a research contract, where the R&D work is subcontracted to a person or a partnership with which the taxpayer is at arm's length. Such expenditures for the purposes of the new tax credit will consist of the same amounts as the eligible R&D expenditures currently stipulated under the tax credit for pre-competitive R&D.

Moreover, to be eligible for the tax credit, a person or a partnership will be required to carry on a business in Québec and have an establishment there to which the R&D work must relate. However, the other person or other persons or partnerships with which the taxpayer concludes a partnership contract to carry out R&D work in Québec or to have such work carried out for their benefit in Québec, may be a person or a partnership that does not carry on a business in Québec and does not have an establishment there.

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[49] To be considered, such an application must be supported by all the documents the MDEIE needs to determine the eligibility of such agreement.

[50] For greater clarity, the terms and conditions of the tax credit for pre-competitive R&D mentioned in this text include any change announced in this Budget Speech regarding such tax credit.

For the purposes of the tax credit, a "private-private partnership" means, at a given time, a partnership of which none of the partners is:

- an eligible university entity;
- an eligible public research centre;
- an eligible research consortium;
- a public organization;
- a trust one of the capital or income beneficiaries of which is an eligible university entity, an eligible public research centre, an eligible research consortium or a public organization;
- a partnership more than 50% of whose interests, during the 24 months preceding the given time or at a later time that the Minister of Revenue determines, are held directly or indirectly, in any manner whatever, by an entity, an organization or a person covered above or below, or by a combination of entities, organizations or persons covered above or below;
- a corporation that, during the 24 months preceding the given time or at a later time that Revenu Québec determines, is controlled, directly or indirectly, in any manner whatever, by an entity, an organization or a person covered above or by a combination of entities, organizations or persons covered above.

A "public organization" means:

- a government, municipality or other administration;
- an organization that has a majority of members from the Québec or federal public sector, i.e. appointed by a minister, a government, a municipality or other administration or another public organization;
- an organization whose staff is appointed in accordance with the *Public Service Act* or the *Public Service Employment Act* (federal);
- an organization that derives more than 50% of its funding from Québec or federal public funds, i.e. from the consolidated revenue fund or from the federal Treasury, from a government, municipality, other administration or another public organization;
- any entity that Revenu Québec designates as a public organization;
- a combination of entities each of which is covered above.

However, because of the restrictive field of application of the tax credit for private partnership R&D, i.e. private-private partnerships, a formality will be necessary to ensure the integrity of the system and determine the eligibility of the partners for the purposes of the tax credit. Accordingly, an advance ruling mechanism will be implemented and will be administered by Revenu Québec.

Accordingly, a taxpayer will be required to obtain a favourable advance ruling from Revenu Québec. In making an advance ruling, Revenu Québec will check whether the following conditions are satisfied:

— the R&D work is carried out under an agreement that constitutes a partnership contract under a pre-competitive research project covered by the tax credit;

— the contract is between two or more partners including the applicant, who carries on a business in Québec and has an establishment there;

— none of the partners is a prescribed research entity, an organization, a trust, a partnership or a corporation mentioned above.

To determine whether the agreement constitutes a partnership contract under a pre-competitive research project covered by the tax credit, Revenu Québec will have to obtain a favourable opinion from the MDEIE.

A favourable advance ruling must be obtained before an amount is paid under the partnership contract. However, extensions of this deadline similar to those that apply to the favourable advance ruling required under the tax credit for university R&D will be stipulated.

In addition, in the case where a partnership contract extends over a period of more than three years, a new favourable ruling must be obtained from Revenu Québec three years after the date of the initial favourable advance ruling and each of the favourable rulings subsequently issued by Revenu Québec, throughout the entire duration of the partnership contract.

Moreover, a taxpayer who is a member of a partnership that, for a taxation year, no longer qualifies as a private-private partnership, may claim the tax credit for R&D salary if it otherwise satisfies its application conditions.

In such case, the fact that it had previously submitted, for a taxation year, the prescribed form containing information relating to eligible expenditures for the purposes of the tax credit for private partnership R&D no later than 12 months after the filing due date applicable to him for the year will be sufficient to authorize a claim for the tax credit for R&D salary for that same taxation year.

❑ Changes to the tax credit for R&D salary

As mentioned above, in some cases, the restrictions resulting from the contribution rules completely offset the tax assistance. Accordingly, these rules, which are necessary to ensure the integrity of the tax credit for R&D, impede efforts to capitalize on the results of university research and public-private partnerships created to carry out R&D work and, in this context, the tax credit for university R&D and the one for pre-competitive R&D do not make it possible to achieve the objectives of the component that involves the development of practical applications for research findings and public-private partnerships. To restore efforts to capitalize on the results of university research and public-private partnerships to their rightful place, the tax assistance allowed regarding them will be increased.

Accordingly, to achieve the objectives underlying the introduction of tax assistance regarding the component that involves the development of practical applications for research findings and public-private partnerships, streamlining measures will be introduced regarding the contribution rules that apply under tax credits for R&D.

Accordingly, to simplify the system of tax credits for R&D, the tax credit for R&D salary will become the one stop for taxpayers that carry out R&D projects that currently come under the component that involves the development of practical applications for research findings of the tax credit for university R&D and regarding R&D projects conducted under public-private partnerships that currently come under the tax credit for pre-competitive R&D.

Consequently, for a taxpayer that, previously, would have benefited from the component that involves the development of practical applications for research findings of the tax credit for university R&D, or the tax credit for pre-competitive R&D, as the case may be, to benefit from the tax credit for R&D salary, such tax credit will be changed to allow participation by a public partner. In addition, the eligible expenditure for the purposes of this tax credit will no longer be reduced by the amount of such a participation obtained by the taxpayer and the tax credit will simply be calculated without taking this amount into consideration.

Moreover, the general contributions rule will be maintained and no tax credit may be attributed to a taxpayer if he obtains, is entitled to obtain or may reasonably expect to obtain a contribution in the form of a former, present or future entitlement in the proceeds of disposition of the intellectual property arising from the R&D project or of a contract, as the case may be, or in the form of an asset that the Minister of Revenue has designated as being a contribution.

However, because of the substantial changes made to the contribution rules, a corporation controlled directly or indirectly by a prescribed research entity may no longer be eligible for the tax credit for R&D salary. Consequently, the rule that, under the existing tax legislation, applies to this tax credit, but only in situations where a corporation, under a research contract, subcontracts R&D work to a prescribed research entity, will be extended to all situations, whether the R&D work is carried out by the corporation or is subcontracted.

For greater clarity, all the other parameters currently stipulated for the purposes of the tax credit for R&D salary remain unchanged, including the rules relating to benefits or advantages and to considerations that do not consist entirely of money.

☐ Tax credit for an R&D consortium

Lastly, no change will be made to the tax credit for an R&D consortium that relates to contributions and dues paid to an eligible research consortium because of the special nature of this tax credit. The tax assistance allowed under this tax credit does not bear on R&D spending in relation to a specific R&D project, unlike the other tax credits for R&D, but rather on the funding of an eligible research consortium, i.e. essentially a private research centre.

☐ Application dates

Generally speaking, these changes will apply to R&D expenditures incurred after the day of the Budget Speech, regarding R&D work done after that day, under a contract concluded after that day, if applicable.

• Tax credit for university R&D

However, these changes will not apply to R&D expenditures incurred after the day of the Budget Speech, regarding R&D work done after that day, under a contract regarding which Revenu Québec has issued a favourable advance ruling no later than the day of the Budget Speech or regarding which such a ruling is issued after the day of the Budget Speech, if an application for an advance ruling was submitted to Revenu Québec, no later than that day. To be considered, such an application must be supported by all the documents needed by Revenu Québec for its analysis.

- **Tax credit for pre-competitive R&D**

These changes will also not apply to R&D expenditures incurred after the day of the Budget Speech, regarding R&D work done after that day, under an agreement that constitutes a partnership contract under a pre-competitive research project[51] regarding which the MDEIE has issued a certificate no later than the day of the Budget Speech or under an agreement for which an application was submitted to the MDEIE, no later than that day, to obtain recognition as a partnership contract under a pre-competitive research project. To be considered, such an application must be supported by all the documents needed by the MDEIE to determine the eligibility of such agreement.

2.5.2 Streamlining measure for the tax credit for pre-competitive R&D[52]

In the April 21, 2005 Budget Speech, it was announced that the tax assistance granted under refundable tax credits for R&D would be refocused on Québec companies. In general, this intention is reflected in the requirement that a person or partnership carry on a business in Québec and have an establishment there to which the R&D work must relate to be eligible for the refundable tax credit for R&D salary, the refundable tax credit for university R&D and the refundable tax credit for pre-competitive R&D.

Moreover, for the purpose of the refundable tax credit for pre-competitive R&D, the MDEIE must issue a certificate recognizing that R&D work will be done under an agreement that constitutes a partnership contract under a pre-competitive research contract. In such a case, all the persons or partnerships with which a taxpayer has concluded a partnership contract to do R&D work in Québec, or to have such work done for their benefit in Québec, must themselves also be a person or partnership that carries on a business in Québec and has an establishment there.[53]

The results of this approach may be opposed to the objectives of the government economic policy that include promotion of industrial research in partnership and participation of Québec companies in international projects.

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[51] For greater clarity, neither will these changes apply to R&D expenditures incurred after the day of the Budget Speech, regarding R&D work done after that day, under an agreement regarding which Cabinet issued a decision, no later than December 31, 1996, recognizing that the R&D work covered by such agreement will be done under a catalyst project or an environmental technology innovation project.

[52] Although this tax credit will be abolished for the future, taxpayers will continue to be able to benefit from it under transition rules.

[53] For greater clarity, this change does not apply to a person who is a party to such a partnership contract where such person is a public research centre, a university entity or other similar organization that contributes to the carrying out of a partnership contract and whose mission is not to carry on a business.

Consequently, for the purposes of the refundable tax credit for pre-competitive R&D, the other person or persons or partnerships with which the taxpayer concludes a partnership contract to carry out R&D work in Québec or to have such work carried out for their benefit in Québec, may be a person or partnership that does not carry on a business in Québec and does not have an establishment there.

For greater clarity, the streamlining measure will only cover the other person or persons or partnerships with which a taxpayer who claims a refundable tax credit for pre-competitive R&D concludes a partnership contract. Accordingly, to be eligible for the tax credit, the requirement that the taxpayer carry on a business in Québec and have an establishment there to which the R&D work must relate will be maintained.

This change will apply to R&D expenditures incurred after April 21, 2005, for R&D work done after that date, under an agreement that constitutes a partnership contract under a pre-competitive research project and regarding which the MDEIE issued a certificate after that date.

2.5.3 Correction of various technical problems

To ensure the integrity and consistency of the refundable tax credits for R&D, various technical changes must be made to them.

❑ Twelve-month period for filing documents

According to existing tax legislation, even though a taxpayer has filed, for a taxation year, the prescribed form containing the information relating to eligible expenditures for the purposes of a tax credit for R&D, no later than twelve months after the filing due date applicable to him for the year, he may not claim a different tax credit for R&D for the same year if the form especially prescribed for the latter tax credit is filed after such twelve-month period. Like the situation that will obtain regarding the tax credit for private partnership R&D, a streamlining measure will be added to the tax legislation in this regard.

Accordingly, the legislation will be amended to stipulate that, concerning the twelve-month period for the production of documents for the purposes of obtaining a tax credit for R&D, the fact that a taxpayer has already filed, for a taxation year, the prescribed form containing the information relating to eligible expenditures for the purposes of a tax credit for R&D no later than twelve months after the filing due date applicable to him for the year will be sufficient to authorize a claim for a different tax credit for R&D for the same taxation year.

This change will apply to a claim relating to a tax credit for R&D made after the day of the Budget Speech.

❑ Ineligibility of certain expenditures

Under the refundable tax credit for R&D salary, the existing legislation contains no restriction as to the eligibility of expenditures in situations where a taxpayer carries out R&D work himself or has such work done by a subcontractor. Accordingly, expenditures such as legal or accounting fees, for instance, can sometimes be considered for the purposes of calculating this tax credit.

This result does not correspond to fiscal policy in the field of R&D. Accordingly, the tax legislation will be amended so that the R&D expenditures that are ineligible for the purposes of the university R&D, pre-competitive R&D and R&D consortium tax credits are also ineligible for the purposes of the R&D salary tax credit, whether such expenditures are incurred by the taxpayer himself or by a subcontractor.

Moreover, the definitions of an ineligible expenditure cover, for the purposes of the tax credits for university R&D, pre-competitive R&D and an R&D consortium, an expenditure incurred by the taxpayer who claims any of these tax credits. In fact, however, the expenditure can be incurred either by a prescribed research entity that is a party to a research contract concluded with the taxpayer under an R&D project, or by a subcontractor, or by an eligible research consortium, depending on the tax credit in question.

Consequently, the tax legislation will also be amended to refer therein, in the definitions of an ineligible expenditure, to an expenditure incurred by a prescribed research entity, a subcontractor or an eligible research consortium, as the case may be, for the purposes of the tax credits for university R&D, pre-competitive R&D and an R-D consortium.

These changes will apply to R&D expenditures incurred after the day of the Budget Speech for R&D work done after that day under a contract concluded after that day, if applicable.[54]

❑ Concomitance of expenditures

For the purposes of the refundable tax credit for R&D salary, particular provisions stipulate that some work done by subcontractors can be eligible even though it is not R&D work. For instance, welding work done by a subcontractor may be eligible provided such work is essential to carry out the R&D project.

It is likely that such work cannot always be carried out in the same taxation year as the one in which the R&D work to which it relates was itself done. That does not mean that such work is any less essential.

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[54] Concerning the tax credit for private partnership R&D, see note 50.

Consequently, the tax legislation will be amended to stipulate that the expenditures incurred for work pertaining to R&D work, other than excluded expenditures, may be eligible even though the work was not done in the taxation year during which the R&D work to which it relates was done.

This change will apply to R&D expenditures incurred after the day of the Budget Speech for R&D work done after that day.

2.6 Adjustments to the refundable tax credit for design

In the April 21, 2005 Budget Speech, the refundable tax credit for design was substantially changed to, among other things, broaden its scope.

This tax credit has two components and applies regarding certain expenditures that an eligible corporation incurs in relation to eligible design activities. The first component concerns fashion design (design and pattern drawing) or industrial design activities carried out under an external consulting contract. The second component covers salary expenditures incurred by a corporation regarding designers and pattern makers it employs in the fashion sector, and designers it employs in the industrial sector.

The rate of the tax credit, regarding these two components, is 15%, but it may be increased to as much as 30% in the case of a corporation that qualifies as an SME.[55]

Moreover, a new eligibility criterion based on production in Québec of goods arising from an eligible design activity has been implemented. According to this new criterion, whose application is administered by the MDEIE, a corporation must show that part of its total production is attributable to goods it made itself in Québec, which goods arise from design activity that is eligible for the purposes of the tax credit.

In the fashion sector, a corporation's minimum percentage of production in Québec is 20% of its total production, for the preceding fiscal year or, if the corporation is in its first fiscal year, at the end of such fiscal year.[56]

Concerning the industrial sector, a corporation's minimum percentage of production in Québec is 50%, which percentage is applied in the same way as in the fashion sector.

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[55] A corporation whose assets, including the assets of associated corporations calculated on a world basis, do not exceed $50 million for the preceding fiscal year.

[56] Because of the particular characteristics of the footwear sector, the eligibility criterion based on minimum production in Québec does not apply to this sector.

❑ Changes to the criterion relating to achieving the minimum percentage of production in Québec

In both the fashion sector and the industrial sector, corporations sometimes make use of subcontractors. Accordingly, the obligation that a minimum percentage of a corporation's total production be attributable to goods it made itself in Québec can disqualify a corporation that makes use of subcontracting in the course of its production activities, even if the minimum percentage of production in Québec would be achieved by also considering the corporation's production thus subcontracted.

In this context, to reflect the commercial practices of corporations that make use of subcontracting, the minimum percentage of production in Québec will no longer apply solely to goods that the corporation makes itself, but also to the goods produced under subcontract to the corporation. This adjustment will apply both in the fashion sector and the industrial sector.

For greater clarity, the MDEIE may require any information it considers relevant for the purposes of deciding whether or not a corporation has achieved the minimum percentage of production in Québec, in relation to the production of goods by the corporation itself and the production of goods under subcontract to the corporation.

Moreover, the criterion according to which goods made in Québec must stem from an eligible design activity for the purposes of the tax credit, to determine whether or not the corporation is achieving the minimum required percentage of production in Québec, will also be changed.

More specifically, whether or not the minimum percentage of production in Québec is achieved, in the fashion sector or the industrial sector, will instead be determined on the basis of all the goods made in Québec in the sector in question, by the corporation or on its behalf, regardless of whether or not these assets are made as a result of an eligible design activity.

Lastly, to offer more flexibility to companies, in particular when the activities generate significant economic spin-offs for Québec, the MDEIE may assign a greater or lesser relative importance to certain expenditure items used in calculating the percentage of production in Québec, in both the fashion sector and the industrial sector.

❑ Application date

These changes will apply to an eligibility certificate issued by the MDEIE after April 21, 2005, regarding a taxation year of an eligible corporation ending after April 20, 2005.

However, in the case of a taxation year of an eligible corporation that includes April 21, 2005, the MDEIE may issue an eligibility certificate for such corporation on the basis of the previous eligibility criteria of a corporation, i.e. the criteria applicable before April 21, 2005.

2.7 Measures concerning culture

For many years, the government has made use of tax credits to support Québec's various cultural industries. These tax credits are the tax credit for Québec film and television production, the tax credit for film production services, the tax credit for film dubbing, the tax credit for sound recording production and the tax credit for book publishing.[57]

Changes will be made to these tax credits to ensure that they achieve their objectives.

2.7.1 Broadening of the refundable tax credit for the production of sound recordings

The refundable tax credit for sound recording production covers labour expenditures attributable to services supplied in Québec for the production of eligible sound recordings.

This tax credit is equal to 29.1667% of the amount of eligible labour expenditures, which are limited, however, to 45% of the eligible production expenses of the sound recording. Tax assistance can accordingly reach 13.125% of the production expenses of the sound recording.

Moreover, the tax credit, regarding an eligible sound recording, may never exceed $43 750.

In general, an eligible sound recording must have been produced by a recognized record company or by a corporation that concluded an agreement for the use of the sound recording, with a recognized record company, and satisfy the Québec content criteria stipulated in a point scale. Furthermore, 75% of the amounts paid for the production of the sound recording must be paid to persons who resided in Québec or to corporations with an establishment there.

The tax credit for the production sound recordings was set up to support the Québec recording industry and encourage its consolidation, by fostering the development of Québec songs.

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[57] The tax credit for the production of shows is also a tax credit intended for Québec's various cultural industries. However, no change is made to this tax credit in this Budget Speech.

Since the introduction of this tax credit in 1999, advances in technology and the generalization of digital media have substantially transformed the music industry. The arrival of new digital audio-visual media, including audio DVD and music video DVD, as well as the growth of the market for these products show the current importance of image in support of sound recordings.

In addition, while the addition of original audio-visual material is necessary to spark public interest regarding a digital audio-visual recording, the expenses relating to the production of such material significantly increase the costs of a sound recording. Moreover, for some types of music, the clip is now a key distribution and promotion tool, whether it is produced for integration in a digital audio-visual recording or simply for broadcast on specialized channels.

Accordingly, to adapt the tax credit for the production of sound recordings to the new realities of the music industry, changes will be made to the tax credit to make digital audio-visual recordings and clips eligible for it.

Moreover, Québec companies operating in the field of digital sound recording must compete against the very competitive rates offered by certain foreign companies in this sector. Accordingly, changes will be made to the tax credit for the production of sound recordings to encourage Québec recording firms to award the pressing of eligible sound recordings to Québec companies.

☐ Changes to the certification criteria for a sound recording

In general, to be eligible for the tax credit for the production of sound recordings, a production must satisfy standards of musical content, based on timing, as well as Québec content criteria stipulated in a point scale.

Accordingly, to enable digital audio-visual recordings and clips to give rise to tax assistance, changes will be made in particular to the types of productions eligible for the tax credit for the production of sound recordings.

• Eligible digital audio-visual recording

More specifically, the regulations relating to the tax credit for the production of sound recordings will be amended to stipulate that a digital audio-visual recording will be an eligible digital audio-visual recording for the purposes of this tax credit provided that the Société de développement des entreprises culturelles (SODEC) issues a certificate for it according to which:

— it is at least 30 minutes in length, or 20 minutes if intended for children under age 13;

- its main program consists almost exclusively of performances by the artist taken from his shows, new material or clips. To that end, the artist's participation as an actor, host or invited guest will not be considered as such an artistic performance;
- at least 75% of all the amounts paid for its production, other than the remuneration paid to persons covered by the point scale, were paid to persons residing in Québec at the end of the taxation year preceding the beginning of the recording work or to corporations that had an establishment in Québec during such year;
- it was produced by a recognized record company or by a corporation that concluded an agreement for its use with a recognized record company;
- it is produced for commercial purposes;
- it is not an excluded digital audio-visual recording;
- it satisfies the Québec content criteria stipulated in the following point scale. Under this point scale, a digital audio-visual recording must obtain a minimum of five points out of a maximum of nine points based on the place of residence of the creative personnel who participated in its production, at the end of the taxation year preceding the beginning of the recording work.

TABLE 1.7

POINT SCALE
(Relative weight of creative personnel based on residence)

Creative personnel	Points allowed for a Québec resident
Writer or lyricist(1)(2)	1 or 2
Composer of the music(1)(2)	1 or 2
Artistic director(1)	1
Musical director(1)	1
Producer(1)	1
Arranger(1)	1
Sound engineer(1)	1
Principal artist(3)	2

(1) When more than one person hold this position, the point will be allowed only if at least half of these persons are residents of Québec at the end of the taxation year that precedes the beginning of the recording work.

(2) In the case of an instrumental recording, the composer's position will count for two points and no point will be allowed for the writer or lyricist's position. In the case of comedy shows, the writer's position will count for two points.

(3) To determine who the principal artist is, the following items will be considered: remuneration, mention on the jacket and the length of the artist's performance.

Excluded digital audio-visual recording

The following digital audio-visual recordings will be ineligible for the tax credit for the production of sound recordings:

— a digital audio-visual recording that gives rise to a tax credit for the production of multimedia titles;

— a digital audio-visual recording that consists chiefly of material that has given rise to tax credits for film and television production;

— a digital audio-visual recording made for purposes of education or teaching a technique, or for the particular purposes of a business or a corporation, or which is a talking book, a collection of sound effects or a component of a game;

— a digital audio-visual recording that includes scenes of explicit sexuality;

— a digital audio-visual recording that may incite hatred against an identifiable group.

Eligible clip

Similarly, the regulations relating to the tax credit for the production of sound recordings will be changed to stipulate that a clip may give rise to a tax credit, provided that SODEC issues a certificate for it according to which:

— it was produced in addition to an eligible sound recording or an eligible digital audio-visual recording either within 24 months of the date of recording the master tape of such recording, or within 24 months of the date of recording the master tape of the first clip produced in addition to this recording;[58]

— it was produced to promote this eligible sound recording or such eligible digital audio-visual recording;

— it was produced to be commercialized, including downloading over the Internet, or will be distributed either by the holder of a broadcast license issued by the Canadian Radio-television and Telecommunications Commission (CRTC), or by the holder of a distribution license according to which the clip will be played in Québec in a place for the public presentation of films;

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[58] For greater clarity, the date of recording the master tape of a clip must be within either of these 24-month periods for the clip to qualify as an eligible clip.

- at least 75% of all the amounts paid for its production, other than the remuneration paid to its producer, were paid to persons who resided in Québec and the end of the taxation year that preceded the work to record the clip or to corporations that had an establishment in Québec for such year;
- the producer of the clip resided in Québec on December 31 of the taxation year preceding the one during which the production work for the clip began;
- it is not an excluded clip.

Excluded clip

The following clips are ineligible for the tax credit for the production of sound recordings:

- clips that contain scenes of explicit sexuality;
- clips that may incite hatred against an identifiable group;
- clips that are components of a game.

Eligible sound recording

For uniformity considerations, the regulations relating to the tax credit for the production of sound recordings will be amended to withdraw the exclusion of the sound recording giving rise to the tax credits for film and television production from eligibility for the tax credit for the production of sound recordings.

Recognized record company

For the purposes of the tax credit for the production of sound recordings, an eligible corporation means in particular a corporation that, for a taxation year, is a record company recognized by SODEC or a corporation that concluded an agreement for the use of a sound recording, with a record company so recognized.

To be recognized, for a taxation year, a record company must satisfy the following conditions:

- have, at any time during the taxation year or the 365 days preceding the beginning of such year, a minimum of five sound recordings distributed, under any of its labels, in retail stores;
- have marketed, in the taxation year or the 730 days preceding the beginning of such year, a minimum of three new sound recordings under any of its labels.

The regulations relating to the tax credit for the production of sound recordings will be amended to stipulate that a record company may also be recognized by SODEC if it satisfies these conditions regarding digital audio-visual recordings under any of its labels.

- **Application date**

These changes will apply in relation to a digital audio-visual recording or a clip regarding which an application for an advance ruling, or a final certification application where no application for an advance ruling was previously filed, is filed with SODEC after the day of the Budget Speech.

The change to the recognition criteria of a record company will apply in relation to a taxation year of a corporation ended after the day of the Budget Speech.

☐ Changes to eligible production work in relation to an eligible digital audio-visual recording and a clip

Briefly, the refundable tax credit for the production of sound recording covers labour expenditures attributable to services supplied in Québec for eligible production work done prior to the date of completion of the master tape of an eligible sound recording. To that end, eligible production work is the work done to complete the stages of production of an eligible sound recording from the initial design to the production of the master tape, including the design of the jacket, but does not include activities relating to pressing, disc or tape duplication, promotion, distribution or dissemination.

So that the expenses relating to the production of audio-visual material used in the course of a digital audio-visual recording or a clip can give rise to a tax credit for the production of sound recordings, the tax legislation will be amended to stipulate that eligible production work, in relation to an eligible digital audio-visual recording or clip, will include the stages of production of the video material of such property from the initial design to the recording of the master tape but do not include activities relating to its promotion, dissemination or distribution.

In addition, in the case of an eligible digital audio-visual recording, the authoring stage will be added to the eligible production work for the purposes of the tax credit for the production of sound recordings. For greater clarity, this stage will include the encoding, assembly and addition of interactivity of the image, sound and other components to be digitized, including ambiophonic sound production, to the burning of the master copy or its recording on tape prior to pressing.

These changes will apply regarding labour expenditures otherwise eligible for this tax credit, incurred after the day of the Budget Speech.

☐ Clarifications regarding eligible labour expenditure and production expenses in relation to an eligible digital audio-visual recording and a clip

The tax legislation will also be amended to stipulate that a labour expenditure attributable to services supplied in Québec, for eligible production work, cannot give rise to a tax credit in relation to an eligible digital audio-visual recording or clip if the amount of such expenditure has otherwise given rise, on another account, to a tax credit in relation to an eligible sound recording. Similarly, a labour expenditure attributable to services supplied in Québec, for eligible production work, cannot give rise to a tax credit in relation to an eligible digital audio-visual recording if the amount of such expenditure has previously given rise to a tax credit in relation to an eligible clip.

In other words, in the course of determining the tax credit for the production of sound recordings regarding a sound recording produced on more than one eligible medium (sound recording, digital audio-visual recording and clip), a given labour expenditure will be taken into account only once.

In addition, the labour expenditures attributable to production work that gave rise to a tax credit for Québec film and television production, a tax credit for film production services or a tax credit for the production of shows will be excluded expenditures for the purposes of the tax credit for the production of sound recordings.

For example, the labour expenditures and expenses relating to the capture of a show that was broadcast will be excluded from the production expenses and expenditures of a digital audio-visual recording or clip for the purposes of the tax credit for the production of sound recordings. Similarly, where the images of a show that otherwise gives rise to a tax credit for the production of shows are used in the course of production of a digital audio-visual recording or a clip, only the expenditures and expenses relating to the capture of this show (as opposed to the labour expenditures and production expenses of the show itself) will give rise to a tax credit for the production of sound recordings.

For greater clarity, only the labour expenditures attributable to services supplied in Québec, for eligible production work, will give rise to a tax credit for the production of sound recordings.

These changes will apply regarding labour expenditures otherwise eligible for this tax credit, incurred after the day of the Budget speech.

❑ Inclusion of certain expenses relating to the pressing of a sound recording and a digital audio-visual recording

The tax legislation will also be amended to add the pressing stage to the eligible production work of a corporation regarding an eligible sound recording or an eligible digital audio-visual recording, including the design of the jacket, mastering the property and duplication of its media.

However, only labour expenditures and production expenses attributable to the pressing of a sound recording or digital audio-visual recording incurred within 18 months of releasing such recording, up to such expenditures and expenses relating to the pressing of the first 20 000 copies of the recording, give rise to a tax credit for the production of sound recordings.

For greater clarity, only the labour expenditures attributable to services supplied in Québec, for such eligible production work, will give rise to a tax credit for the production of sound recordings.

These changes will apply regarding labour expenditures otherwise eligible for this tax credit, incurred after the day of the Budget speech.

❑ New excluded amount of assistance

In general, the amount of any government assistance and any non-government assistance, other than an excluded amount, that a corporation received or is entitled to receive, must reduce the amount of labour expenditures or production expenses, as the case may be, for the calculation of the tax credit for the production of sound recordings.

The legislation will be amended to stipulate that an amount of assistance paid by the Department of Canadian Heritage is an excluded amount of assistance for the purposes of the tax credit for the production of sound recordings. Accordingly, an amount of assistance paid by this organization will not reduce eligible labour expenditures or production expenses relating to an eligible sound recording, an eligible digital audio-visual recording or an eligible clip.

This change will apply regarding an amount of assistance received or receivable after the day of the Budget Speech.

❑ Cap on the tax credit

Like the situation that obtains in the case of an eligible sound recording, the tax credit regarding an eligible digital audio-visual recording may not exceed $43 750 at any time.

Moreover, the tax credit regarding an eligible clip may not exceed $21 875 at any time.

❑ Other application details

For greater clarity, the other application details of the tax credit for the production of sound recordings also apply to an eligible digital audio-visual recording and to an eligible clip.

2.7.2 Adjustments to the refundable tax credit for Québec film and television production

The refundable tax credit for Québec film and television production applies to the labour expenditures incurred by a corporation that produces a Québec film and generally corresponds to 29.1667% of the eligible labour expenditures incurred to produce the film. However, the labour expenditures that give rise to this tax credit cannot exceed 50% of the production expenses of the film, such that the tax assistance generally cannot exceed 14.58335% of such expenses.

Under this tax credit, a tax credit rate of 39.375% applies regarding labour expenditures relating to the production of certain French-language feature films and documentaries, such that the tax assistance in this regard can reach 19.6875% of the production expenses of such films.

For a production to be recognized as a Québec film, the *Regulation respecting the recognition of a film as a Québec film* (Regulation) stipulates that it must satisfy criteria relating, among other things, to the type of production, the persons who occupy certain specific creative positions and the percentage of production expenses incurred in Québec.

Changes will be made to the criteria for granting the enhancement for French-language feature films and unique documentaries in the case of a co-production, as well as to the eligibility criteria of a television series.

❑ Co-production

To receive the French-language bonus, a fiction feature film or unique documentary must in particular satisfy a point scale stipulated in the Regulation according to which the production receives a minimum of five points out of a maximum of seven, attributed according to the residence in Québec of certain persons occupying key positions in the production of the film, on December 31 of the year preceding the year during which an application for an advance ruling is filed with the SODEC regarding the production.

In addition, the Regulation stipulates that 75% of the performance fees paid to persons, other than those covered by the point scale relating to key personnel, must be paid to individuals who resided in Québec on December 31 of the year preceding the year during which an application for an advance ruling is filed with SODEC regarding the production.

Furthermore, the production must have been scripted and produced in French and the first screening in Québec of the film must be in French.

In the case of a co-production, these certification criteria must be satisfied regarding the entire co-production and not only its Québec portion.

In the case of some co-productions, the application of the criterion requiring that 75% of the performance fees paid to persons, other than those covered by the point scale, be paid to individuals who resided in Québec, would be restrictive. While these productions usually comply with the point scale on the basis of the key creative personnel, such co-productions sometimes fail to qualify under the second criterion.

This situation is attributable to, among other things, the size of the fees paid to certain foreign actors compared to those paid to Québec actors. In addition, the social charges payable, which are in addition to the fees paid, as well as the weakness of the Canadian dollar compared with certain currencies, are also factors that could contribute to a situation in which the performance fees paid to the foreign co-producer exceed the allowable limit of 25%.

Accordingly, to better reflect the relative size of the Québec and foreign markets regarding fees paid to actors, an adjustment will be made to the certification criteria applicable to a co-production to obtain the French-language feature film and unique documentary bonus.

More specifically, the criterion requiring that 75% of the performance fees paid to persons, other than those covered by the point scale, be paid to individuals who resided in Québec, will be withdrawn from the certification criteria applicable in the case of a co-production.

For greater clarity, this change will have no influence on the other criteria otherwise applicable to a co-production to obtain the French-language feature film and unique documentary bonus.

This change will apply to a film or television production regarding which an application for an advance ruling, or a final certification application where no application for an advance ruling has been filed in relation to such production, is filed with SODEC after the day of the Budget Speech.

❑ Television series

The Regulation stipulates that a film must belong to a category of eligible productions and not belong to a category of excluded productions to be recognized as a Québec film.

Furthermore, in the case of a series, each episode must qualify under the same category of eligible productions for each episode of this series to be recognized as a Québec film. Introduced as part of the updating of the Regulation announced in the June 12, 2003 Budget Speech, uniformity of genre for the episodes of the same series was emphasized at the time mainly to simplify the task of SODEC in the course of its analysis in relation to the eligibility of a series for which an application for an advance ruling or final certification, as the case may be, is submitted to it.

However, one of the episodes of a series may exceptionally be of a different genre than the other episodes of the series, without otherwise constituting an excluded production under the Regulation. For instance, one of the episodes of a magazine type series could be a variety show, these two categories being eligible productions under the Regulation. In such a situation, the application of the rule requiring uniformity of genre within the same series would make the series ineligible as a magazine type series, because of the presence of the variety show, even though all the episodes of the series, taken individually, could qualify as Québec films.

This result is not consistent with fiscal policy. The intention at the time was not so much uniformity of genre as uniformity with respect to the eligibility of episodes of the same series. Consequently, a regulatory amendment will be made.

More specifically, the Regulation will be amended to withdraw the requirement that each episode that is part of a series must qualify under the same category of eligible productions for all of the episodes of such series to be recognized as Québec films.

This amendment will apply to a film or television production regarding which an application for an advance ruling, or a final certification application where no application for an advance ruling has been filed in relation to such production, is filed with SODEC after June 12, 2003.

❑ Concordance adjustments to the refundable tax credit for film production services and the refundable tax credit for dubbing

In general, categories of eligible productions and categories of excluded productions for the purposes of the refundable tax credit for film production services and the refundable tax credit for dubbing, are the same as those stipulated for the purposes of the refundable tax credit for Québec film and television production, without the Québec content requirements.

In this context, changes will be made to the regulations relating to the tax credit for film production services and to the tax credit for dubbing, to withdraw the requirement that each episode of a series must qualify under the same category of eligible productions.

This change will apply, in the case of the tax credit for film production services, regarding a production for which an application for an advance ruling, or a final certification application where no application for an advance ruling has been filed in relation to such production, is filed with SODEC after June 12, 2003.

In the case of the tax credit for dubbing, this change will apply regarding a production that has been dubbed and for which a final certification application is filed with SODEC after June 12, 2003.

2.7.3 Adjustment of the refundable tax credit for book publishing

The refundable tax credit for book publishing covers labour expenditures attributable to the preparation and printing of an eligible book or a group of eligible books. This tax credit is equal to 35% of eligible labour expenditures regarding the expenses of preparing an eligible book or a group of eligible books, and 26.25% of eligible labour expenditures regarding the expenses of printing such a book or group of books.

To be eligible, a book, in particular, must be the work of a Québec author, and a certain percentage of the preparation and printing expenses must be paid to individuals who are residents of Québec or to corporations with an establishment here. In addition, the book must be published under a trademark of the eligible corporation or under a trademark for which the corporation acquired the publication rights.

The possibility for a corporation of publishing a book under the trademark of a third party increases the chances of books being published for a third party and according to its instructions, or that an excluded corporation may benefit indirectly from assistance that would otherwise be denied to it under fiscal policy.

In this context, the regulations relating to the tax credit for book publishing will be amended to remove the possibility for a corporation of publishing a book under the trademark of a third party.

This amendment will apply to a book or a book that is part of a group of books, for which an application for an advance ruling, or a final certification application where no application for an advance ruling has been filed, is filed with SODEC after the day of the Budget Speech.

2.8 Clarification regarding the eligibility of *droits de suite* for the refundable tax credits for the production of multimedia titles

An initial refundable tax credit relative to the production of multimedia titles (general component) was introduced in the May 9, 1996 Budget Speech. In the March 31, 1998 Budget Speech, a second tax credit applying especially to corporations whose activities consist chiefly in producing such titles was introduced (tax credit for specialized corporations).

Essentially, the difference between the two tax credits lies in the fact that a corporation that wants to benefit from the general component must obtain the required attestations for each of the multimedia titles it produces, while a corporation that intends to claim the tax credit for specialized corporations must obtain the required attestations regarding all its activities. However, in either case, the certificates are issued by Investissement Québec.

For the purposes of these two tax credits, the amount of tax assistance an eligible corporation may receive is based on the amount of the eligible labour expenditure of the corporation, to which is applied a percentage that varies depending on the category of multimedia titles produced by the corporation.

Briefly, the labour expenditure of an eligible corporation, for the purposes of the general component and the tax credit for specialized corporations, consists of wages and salaries incurred by the corporation regarding its employees for eligible production work in relation to a multimedia title, as well as the portion of the consideration the corporation paid in the course of a contract for services for such work that can reasonably be attributed to the wages or salaries attributable to such work.

Moreover, the "eligible production work" in relation to a multimedia title means the work done to carry out the stages of the production of such title during a period beginning at the start of the design stage and ending 24 months after the date of production of a final version, such period including activities relating to writing the screenplay of the title, the formulation of its interactive structure, the acquisition and production of its constituent elements and its computer development. However, the stages of production of the title do not include, in particular, activities carried out to give it access to communication networks, i.e. activities relating to its distribution.[59]

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[59] The notion of "eligible production work" is no longer defined in the *Taxation Act* because the responsibility for determining what constitutes eligible production work in relation to a multimedia title now rests with Investissement Québec, which applies the same determination criteria in this regard.

☐ *Droits de suite*

Briefly, in the multimedia production field, the remuneration paid to an artist in relation to his participation in the production of a multimedia title generally consists of a basic amount, called a "fee", and an additional amount, called "*droits de suite*".

According to the prevailing practices in this industry, *droits de suite* are royalties payable to an artist for the use of a recording in a target market. Accordingly, while the fee paid to an artist can discharge the restricted usage rights of the multimedia title, *droits de suite* are paid to extend its use and vary depending on various factors including the type of utilization of the title (public space, Internet, etc.) and its length.

The artist's remuneration is then based on the principle that the cost of his performance is higher because the performance is intended for a broader use of the title. Accordingly, these *droits de suite* are an integral part of the artist's remuneration and do not depend on subjective data relating to the real distribution of the title, such as remuneration based on the profits or receipts from the operation of the multimedia title.

In this context, payment of *droits de suite* does not result from the actual distribution of the multimedia title and is not made regarding an activity that makes it possible. Rather, *droits de suite* are paid because of an activity that is necessary for the production of the title, i.e. the production of services by the artist.

Consequently, the tax legislation will be clarified to stipulate that *droits de suite* will be included in the labour expenditure for the purposes of the general component and the tax credit for specialized corporations, and to circumscribe the object of such inclusion.

Accordingly, a clarification will be made to the tax legislation to stipulate that the labour expenditure incurred within a taxation year by an eligible corporation does not include remuneration based on the profits or receipts from the use of the multimedia title.

As a corollary, the tax legislation will also be amended to specify that remuneration is not based on the profits or receipts from the use of the multimedia title, where such remuneration is calculated in particular on the basis of the type of use projected for the title, where it is incurred in full in relation to the stages of the production of the title recognized by Investissement Québec, and where it is not subject to any reimbursement if the title is not used according to the initial forecasts.

☐ Application date

The application of this amendment will be declaratory, other than for taxation years prescribed the day of the Budget Speech. Accordingly, it will also apply regarding a year for which a notice of objection, an appeal or a waiver of prescription has been duly served on the Minister of Revenue, before the day of the Budget Speech.

However, concerning a taxation year that is not prescribed the day of the Budget Speech and for which an application for adjustment proves necessary, a taxpayer must have filed such application on the prescription date applicable to such taxation year or that corresponding to the 90th day following the date the law giving effect to this amendment is assented to, which ever occurs later.

2.9 Increase in the deduction for renovations or alterations to improve access to a building

The tax legislation allows the deduction, in the calculation of income from a business or property, for a taxation year, of the amount a taxpayer pays during the year for renovations or alterations made to a building he uses mainly to earn income, if such renovations or alterations are made to enable individuals who have a mobility impairment to gain access to the building or be mobile within it. For instance, the installation of an interior or exterior ramp and changes to a bathroom to make it easier to access by a person in a wheelchair are renovations and alterations that give rise to this deduction.

In the absence of these specific provisions, the amount of such renovations or alterations would be added to the cost of the building and the taxpayer could deduct, in calculating his taxable income, only an amount on account of capital cost allowance, according to the rate assigned to the category of assets in which the building falls.

Moreover, the *Building Code* stipulates building accessibility measures, among others regarding obstacle-free areas, parking spaces, elevators and lifting apparatus, as well as adaptability measures applicable to a certain percentage of hotel rooms. However, installation of many of these measures is required only in certain situations or for certain uses and, in most cases, remains at the discretion of the building owner.

Accordingly, to further encourage accessibility and adaptability of buildings, while encouraging the integration of the obstacle-free design standards set out in the *Building Code* in renovation or alteration projects, the deduction for renovations or alterations to encourage building accessibility will be increased.

Accordingly, the tax legislation will be amended to stipulate that a taxpayer may deduct, in calculating his income from a business or property, the portion of the amount he paid during the year for renovations or alterations made to a building he uses mainly to earn such income, and regarding which he holds an eligibility certificate issued by the Régie du bâtiment, according to which such renovations or alterations incorporate the obstacle-free design standards set out in the *Building Code*.

The eligibility certificate application submitted to the Régie du bâtiment must be accompanied by the plans and other documents considered necessary by the Régie du bâtiment to enable it to decide on the incorporation of and compliance with the obstacle-free design standards set out in the *Building Code*.

More specifically, the eligibility certificate issued by the Régie du bâtiment regarding renovations or alterations made to a given building will specify the types of specialized or adapted equipment installed during such renovations or alterations (for example, a specialized sign device, adapted chairs or a telecommunications system) and the portion, in per cent, of the renovations or alterations made to the building reasonably attributable to the execution of the obstacle-free design (for example, to adapt the height of switches or widen access points).

Moreover, the Régie du bâtiment may revoke an eligibility certificate issued regarding renovations or alterations made to a building if it concludes that they were not carried out in accordance with the plans and other documents submitted with the certification application. As the tax regulations already stipulate in such a case, the Régie du bâtiment will send a copy of the revoked eligibility certificate to Revenu Québec.

For greater clarity, Revenu Québec will retain exclusive jurisdiction regarding the amount of the expenditure actually eligible as a deduction in the calculation of income from a business or property, on account of the increased deduction for renovations or alterations to encourage building accessibility.

Lastly, these changes will not influence the application details of the existing deduction for renovations or alterations made to a building used mainly to earn income from such property or from a business. Accordingly, the deduction of an amount for currently planned renovations or alterations will not require obtaining an eligibility certificate from the Régie du bâtiment.

These changes will apply regarding renovation or alteration expenditures incurred after the day of the Budget Speech.

2.10 Introduction of a tax credit for the hiring of employees specializing in financial derivatives

In accordance with an agreement reached in 1999 by the various Canadian stock exchanges, the Montréal Exchange enjoys exclusive rights to the Canadian market for financial derivatives (FD) until 2009. Some players on Canadian financial markets have already announced their intention to occupy the Canadian market for FDs as soon as the 1999 agreement expires.

Moreover, according to many observers of the financial sector, the FD segment is among those with the best potential growth in the financial sector over the coming years. In addition, the relative value of transactions on this market in Canada is said to be four to five times lower than the average relative value of transactions on the FD market of the major industrialized countries, a situation that, in the short and medium term, indicates that there is a need in Canada to catch up in this field and therefore substantial growth of the Canadian FD market.

In this context, it appears all the more important to encourage the development, in Québec, of state-of-the-art expertise in the FD field and to support the Montréal Exchange in its efforts to ensure that the Canadian FD market remains in Montréal. Accordingly, a temporary, non-refundable tax credit designed to encourage players in Québec's financial sector to hire and train employees specializing in FDs will be introduced.

Briefly, this non-refundable tax credit will allow an eligible corporation that employs, during a taxation year, an eligible specialized employee, to claim a tax credit equal to 20% of the eligible salary paid to such employee, for such year, for any week or part thereof within the period covered by an eligibility certificate issued by the ministère des Finances du Québec (MFQ) regarding such eligible specialized employee.

☐ Eligible corporation

An "eligible corporation", for a taxation year, means a corporation, other than an excluded corporation, that, during such year, carries on a business in Québec and has an establishment there.

☐ Eligible specialized employee

An "eligible specialized employee" of an eligible corporation means an individual, other than a specified shareholder of the eligible corporation, who is an employee of an establishment in Québec of such corporation. Such individual must also hold an eligibility certificate issued by the MFQ. In addition, an annual eligibility certificate regarding him must be obtained from the MFQ.

• Eligibility certificate

An "eligibility certificate", regarding an eligible specialized employee, means a certificate issued by the MFQ regarding an individual who is employed by an eligible corporation, certifying that at the beginning of the period covered by the first eligibility certificate issued regarding such individual:

— he has held, for no more than 48 months, a university degree in a relevant discipline;

— or, if he does not hold a university diploma in a relevant discipline, he passed the first examination leading to the title of Chartered Financial Analyst (CFA) no more than 48 months earlier.

The eligibility certificate will also indicate the period for which the individual may qualify as an eligible specialized employee, although such period may not exceed three years. Accordingly, if many certificates are issued for an individual, for instance if he changes employer, such period will end no later than three years after the beginning of the period covered by the first certificate issued regarding such individual.

• Annual eligibility certificate

An "annual eligibility certificate", regarding an eligible specialized employee, for a taxation year of an eligible corporation or part thereof, means a certificate issued by the MFQ regarding an eligible specialized employee employed by the eligible corporation certifying, for such year or such portion of a year, as the case may be, the following points:

— his employment contract stipulates at least 26 hours of work per week for a planned minimum of 40 weeks;

— he carries out his duties either in the establishment of the eligible corporation located Québec, or elsewhere but in relation with his employment at such establishment of the eligible corporation;

— he devotes at least 75% of his work time to the following activities:

  - financial analysis activities on FDs;
  - adviser activities specializing in FDs;
  - dealer activities specializing in FDs;
  - financial product development activities using FDs.

For greater clarity, the expressions "adviser" and "dealer" have the meaning assigned to them by the *Securities Act*. In addition, for the purposes of determining the proportion of work time devoted to activities relating to FDs by an eligible specialized employee, the work time devoted to solicitation relating to adviser or dealer activities specializing in FDs may be taken into consideration, provided such solicitation relates to activities to be carried out in Québec and does not account for more than 50% of the duties of such employee.

❑ Financial derivative

The expression "financial derivative" (FD) means an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to or based on an underlying interest.

The expression "underlying interest" means, regarding a FD, the security, commodity, financial instrument, currency, interest rate, foreign exchange rate, economic indicator, index, basket, agreement, benchmark or any other reference, interest or variable and, if applicable, the relationship between any of the foregoing from to or on which the market price, value or payment obligation of the FD is derived, referenced or based.

❑ Eligible salary

The "eligible salary" of an eligible specialized employee, for a week, is the employment income of such specialized employee, for such week, calculated according to the *Taxation Act* and paid by the eligible corporation that employs him.

However, such income must be reduced by the amount of any government assistance, any non-government assistance and any profit or gain, according to the usual rules.

Furthermore, the amount of eligible salary regarding which a tax credit may be granted in relation to an eligible specialized employee, for the period covered by an eligibility certificate issued regarding such specialized employee that is within a taxation year of the eligible corporation, is limited to $75 000 per eligible specialized employee, calculated on an annual basis. Accordingly, the amount of the tax credit, for a taxation year, may not exceed $15 000 per eligible specialized employee.

❑ Other application details

If a salary expenditure for which a tax credit has been granted is refunded to the eligible corporation, in whole or in part, the tax credit thus granted may be recaptured by means of a special tax.

An eligible corporation wishing to claim this tax credit, for a taxation year, regarding the eligible salary paid during such year, must, no later than twelve months after the filing due date applicable to it for such taxation year, enclose with its tax return, for such year, the form prescribed by Revenu Québec together with a copy of the certificates and eligibility certificates issued regarding the eligible specialized employees for whom it claims a tax credit, regardless of the fact that it may or may not effectively use this non-refundable tax credit, in whole or in part, to reduce tax payable for such taxation year.

In addition, where, for a taxation year, the tax credit exceeds the tax payable for such taxation year, such excess may be carried forward for the following ten taxation years and carried back for the preceding three taxation years and applied against income tax payable for such taxation years. However, such carry forward will not be allowed regarding a taxation year ended before the day of the Budget Speech.

For greater clarity, the rules limiting the use of losses in case of acquisition of control of a corporation will also apply to this tax credit. Accordingly, where control of a corporation is acquired, the tax credit may be carried over exclusively against the tax attributable to the business, or to its extension, carried on by the corporation prior to such acquisition of control.

Lastly, the salaries regarding which a tax credit is claimed by an eligible corporation must have been paid at the time the tax credit is claimed.

☐ Excluded corporation

An "excluded corporation", for a taxation year, means a Crown corporation or a wholly-controlled subsidiary of such a corporation.

☐ Application date

This measure will apply regarding the eligible salary paid by an eligible corporation after the day of the Budget Speech, to an eligible specialized employee for whom an eligibility certificate is issued by the MFQ after that day and before January 1, 2010.

2.11 Technical changes concerning international financial centres

The international financial centres (IFC) program is designed to encourage the establishment, development and maintenance within the territory of Ville de Montréal of businesses specializing in international financial transactions.

Briefly, an IFC is a business or part of a business established in Montréal all of whose activities pertain to qualified international financial transactions (QIFT). In addition, a QIFT is generally defined as a financial transaction carried out on foreign financial markets, or, subject to certain exceptions, on domestic financial markets for foreign clients.

Lastly, an IFC business can be carried on through a corporation or a partnership and the benefits stipulated in the legislation regarding the operations of an IFC include, among others, a partial exemption from income tax, the tax on capital and the employer contribution to the Health Services Fund.

2.11.1 Change correlative to the disappearance of certain markets from the Montréal Exchange

As specified above, a transaction carried out on a domestic market constitutes a QIFT when it is done on behalf of a foreign client. However, the legislation stipulates certain exceptions under which a transaction carried out on a domestic market on behalf of a Canadian resident may constitute a QIFT. Essentially, these are transactions or distributions of qualified securities.

Under the existing legislation, the expression "qualified security" includes, among other things, securities listed on certain specialized Canadian markets, i.e., more particularly, one of the International Options Market, Mercantile or International Division of the Montréal Exchange, if the transaction for the acquisition of such security was executed there.

On March 15, 2005, the Montréal Exchange amended its regulations to, among other things, remove all references to the International Options Market, Mercantile or International Division. Accordingly, these market divisions no longer exist and the legislation relating to IFCs should be adapted to this new environment.

The *Act respecting international financial centres* will accordingly be amended to withdraw all references to the International Options Market, Mercantile or International Division of the Montréal Exchange.

This change will apply regarding transactions on outstanding securities or securities distributions carried out after March 15, 2005.

2.11.2 Clarifications relating to back office activity

Significant changes were made to the IFC system in the March 31, 1998 Budget Speech, in particular to recognize new financial activities as QIFTs. Among others, back office activities, i.e. the behind-the-scenes administrative tasks associated with front-line financial activities, arising from certain international financial transactions, were recognized as QIFTs (announcement of March 31, 1998).

Moreover, the existing legislation relating to back office activities does not appear to be adapted to the rapid development of commercial practices in this field, which are placing increasing importance on outsourcing and specialized subcontracting.

More specifically, in recent years, the back office industry has become much more developed, so that it is increasingly common for large corporations that operate in this sector to set up subsidiaries specializing in a specific niche, and to subcontract part of the back office contracts obtained from financial corporations to one of these subsidiaries, thus creating a kind of outsourcing chain.

According to the existing legislation, back office activities carried out by a specialized subsidiary of a large corporation in an outsourcing chain context do not constitute a QIFT, because the activity is carried out on behalf of the parent corporation and not, as required by the existing legislation, on behalf of the financial corporation, even though the latter is the true beneficiary of the activity.

Moreover, the announcement of March 31, 1998 specified that back office activities arising from operations carried out regarding an international insurance contract would constitute QIFTs. However, in the latter case, given that the conclusion of an international insurance contract is an operation that falls within the ambit of an insurance company, which is recognized as a financial corporation for the purposes of the *Act respecting international financial centres*, the legislation passed following the announcement of March 31, 1998 limits back office activities regarding insurance solely to the activities carried out on behalf of a financial corporation.

Outsourcing and specialized subcontracting of back office activities regarding insurance are also experiencing strong growth. Accordingly, the existing legislation suffers from the same difficulty regarding insurance back office activities as regarding ordinary back office activities. Consequently, a clarification will be made to the legislation.

Moreover, the field of international insurance includes a broad range of insurance activities. To more easily determine the type of insurance contracts covered by the back office activity, a clarification will be made to the legislation.

More specifically, the provisions of the *Act respecting international financial centres* relating to the back office activity will be amended to:

- specify that the back office activity that stems from a financial transaction carried out by a financial corporation can be made on behalf of a corporation or a partnership;
- specify that back office activities regarding insurance can be carried out on behalf of a person or a partnership, in relation to an insurance contract arising from the carrying on of a business of the insured and for which the premium is attributable exclusively or almost exclusively either, for damage insurance, to the realization of a risk outside Canada, or, for insurance of persons, the coverage of a person who is not a Canadian resident, or of a person who is an expatriate Canadian resident because of his employment abroad.

In addition, a clarification will be made to the legislation to prevent the back office resulting from back office activity from constituting a QIFT for the purposes of the provisions relating to such activity.

Lastly, the legislation also stipulates a general rule according to which a transaction that takes place between an operator of an IFC and a person with which it is not at arm's length does not constitute a QIFT, unless one of the parties to the transaction is a financial corporation. As specified above, regarding back office activities, outsourcing chains are increasingly common. Consequently, a further amendment in this regard is needed.

More specifically, the *Act respecting international financial centres* will be amended to specify that the restriction relating to transactions carried out in a non-arm's-length context does not apply to back office activities.

These changes will apply regarding activities and transactions carried out after December 31, 2000. However, the change relating to the non-application of the restriction relating to transactions carried out in a non-arm's length transaction will apply to a transaction carried after March 30, 2004.

2.12 Clarification concerning the eligibility of a holding corporation for the SME Growth Stock Plan

Briefly, the SME Growth Stock Plan (Accro PME) is a plan to assist the capitalization of small and medium-size Québec companies. Essentially, by allowing an individual to deduct, in calculating his taxable income for a taxation year, the cost of treasury shares he acquired, the Accro PME plan allows the individual to reduce his financial risk and the issuing corporation to obtain permanent capital at lower cost.

To benefit from this plan, a corporation must qualify as an eligible corporation. In general, an eligible corporation is an operating corporation that satisfies various requirements stipulated by the tax legislation, including one relating to the nature of its assets (50% of the value of property rule).

Briefly, according to this rule, on the date of the receipt of the final prospectus of the issue, no more than 50% of the value of the assets of the issuing corporation, as shown in the financial statements submitted to its shareholders for its last taxation year ended before that date, must be constituted of ineligible investments, i.e., in general, cash on hand or on deposit, debt securities (debentures, bonds, etc.) or equity securities (stock, shares, units, etc.).

Essentially, the objective of this rule is to ensure a better allocation of public resources, by denying access to the plan to corporations whose financial profile does not indicate a particular difficulty in obtaining capital.

Exceptionally, a corporation that is not an operating corporation, a holding corporation for instance, can also be recognized as an eligible corporation. To be recognized as such, such a corporation must, in general, show that it is a Canadian corporation whose head office or principal place of business is located in Québec, that almost all of its property consists of shares of the capital stock of one or more of its subsidiaries or of loans or advances granted to such subsidiaries, and that one of these subsidiaries satisfies the requirements applicable to an eligible corporation (qualification subsidiary).

Accordingly, a holding corporation can qualify as an eligible corporation by means of a qualification subsidiary, i.e. a subsidiary that satisfies the various requirements stipulated by the legislation, including the one relating to the 50% of the value of property rule.

Within a group of corporations, the satisfaction of such a rule by a member may not be representative of the reality of the group since the ineligible investments held by the other members of the group are not taken into consideration. Accordingly, a group of corporations could technically circumvent the 50% of the value of property rule by withdrawing ineligible investments from the assets of the qualification subsidiary, and by concentrating these investments in the assets of a sister corporation not taken into consideration in the determination of the eligibility of the holding corporation for the plan.

Moreover, since the 50% of the value of property rule is designed to determine whether the financial profile of a corporation corresponds to the financial profile of corporations targeted by the plan, there is reason to conclude that within a group of corporations, satisfaction of this rule by a subsidiary is not sufficient to draw useful conclusions regarding the group. Consequently, to improve the integrity of the plan, an amendment will be made to the legislation.

More specifically, the legislation relating to the Accro PME plan will be amended so that, regarding the eligibility for the plan of a holding corporation, the 50% of the value of property rule applies both to the qualification subsidiary on an individual basis, i.e. on the basis of its financial statements according to the terms and conditions currently stipulated by the legislation, and to the parent corporation on a consolidated basis, i.e. on the basis of its latest consolidated financial statements submitted to its shareholders for its last taxation year ended:

— before the date the receipt for the final prospectus in the case of a public offering is obtained;

— before the date of the placement in the case of a placement by an investment fund in accordance with a prospectus exemption according to the terms and conditions stipulated by the plan;

— before the filing date of an advance ruling application with Revenu Québec in the case of submitting such an application for registration on the list of the l'Autorité des marchés financiers (AMF).

This change will apply regarding a public offering of shares for which the receipt for the final prospectus has been granted, or, if applicable, for which the filing exemption is obtained, after the day of the Budget Speech. This amendment will also apply to an advance ruling application submitted to Revenu Québec after the day of the Budget Speech in relation to an application for registration on the AMF list.

2.13 Withdrawal of installation activities for the purpose of various refundable tax credits granted in certain regions

In recent years, three refundable tax credits were put in place to encourage job creation in the resource regions of Québec, namely the refundable tax credit for processing activities in the resource regions, the refundable tax credit for Gaspésie and certain maritime regions of Québec and the refundable tax credit for the Vallée de l'aluminium.

In general, these tax credits are granted with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in a target region, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities in particular target the manufacturing and processing sectors.

The notion of certified business also includes installation activities incidental to the manufacturing or processing activities carried out by the corporation or a corporation associated with it.

To attenuate the impact, on central regions, arising from carrying out certain activities eligible for the three tax credits granted in certain regions, a change will be made to the notion of certified business to exclude installation activities.

❑ Refundable tax credit for processing activities in the resource regions

Briefly, the refundable tax credit for processing activities in the resource regions is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in a resource region of Québec, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities are carried out, among others, in the wood processing, metals, non-metallic minerals and energy sectors.

The notion of certified business also includes installation activities incidental to the manufacturing or processing activities carried out by the corporation or a corporation associated with it. While manufacturing or processing activities must be carried out in the resource regions to be recognized as activities of a certified business, installation activities can be carried out outside these regions.

The tax assistance granted to corporations established in the resource regions can, in some regards, lead to undesirable inter-regional competition and hamper the competitiveness of corporations operating in the central regions, in particular where the activities covered by tax assistance are carried out in such regions or where labour accounts for a significant proportion of the costs of production associated with these activities.

Accordingly, the notion of certified business will be changed to exclude installation activities incidental to the manufacturing or processing activities carried out by a corporation or a corporation associated with it. This change will apply as of the day of the Budget Speech.

However, an eligible corporation for which an eligibility certificate has been issued prior to the day of the Budget Speech may continue to receive the tax credit regarding its incidental installation activities, but only for calendar years 2006 and 2007.

Similarly, a corporation carrying out the activities covered by this change, and for which an application to obtain an eligibility certificate is filed with Investissement Québec prior to the day of the Budget Speech may also receive the tax credit for calendar years 2006 and 2007, if it otherwise satisfies the other application conditions. However, an application will not be considered to have been filed unless it is accompanied by the documents needed to determine the corporation's eligibility.

In addition, Investissement Québec may exceptionally issue an eligibility certificate to a corporation, regarding the activities covered by this change, even though the application to obtain such a certificate is formulated the day of the Budget Speech or after that day.

Accordingly, a corporation may obtain an eligibility certificate, regarding activities that include installation activities, where it results from a business reorganization, following a merger for instance, if one of the replaced corporations was, immediately prior to the reorganization, a corporation eligible for the tax credit carrying out activities covered by the change. Similarly, a parent corporation that winds up an eligible wholly-owned corporation and carrying out activities covered by the change may obtain an eligibility certificate. Lastly, an eligible corporation may obtain an eligibility certificate regarding activities that include installation activities, where it continues to carry on a certified business whose installation activities were previously carried out by an associated corporation. However, in all such cases the eligibility certificate may be issued only for calendar years 2006 and 2007.

☐ Refundable tax credit for Gaspésie and certain maritime regions of Québec

Briefly, the refundable tax credit for Gaspésie and certain maritime regions of Québec is allowed with respect to the increase in payroll attributable to eligible employees of an eligible corporation operating in the administrative regions of Gaspésie–Îles-de-la-Madeleine, Côte-Nord, Bas-Saint-Laurent[60] and the Matane RCM, until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate has been issued by Investissement Québec and whose activities are carried out in the development of marine or wind-power resources sectors.

Like the change made in this regard to the refundable tax credit for processing activities in resource regions, the notion of certified business will be changed according to the same terms and conditions and on the same application dates as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

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[60] The Bas-Saint-Laurent region is an eligible region regarding activities carried out in the marine biotechnology and mariculture sector.

☐ Refundable tax credit for the Vallée de l'aluminium

Briefly, the refundable tax credit for the Vallée de l'aluminium is granted regarding the increase in payroll attributable to eligible employees of an eligible corporation operating in the Saguenay–Lac-Saint-Jean administrative region until December 31, 2009.

To be eligible, a corporation must carry on a certified business, i.e. a business regarding which an eligibility certificate was issued by Investissement Québec and whose activities consist, in particular, in manufacturing finished or semi-finished products from aluminum that has undergone primary processing.

Like the change made in this regard to the refundable tax credit for processing activities in resource regions, the notion of certified business will be changed according to the same terms and conditions and on the same application dates as those indicated in the case of the refundable tax credit for processing activities in the resource regions.

2.14 Changes to the refundable tax credit for major job-creating projects

In the April 21, 2005 Budget Speech, a refundable tax credit was introduced regarding major job-creating projects in the information technology sector.

Briefly, this tax credit, which has a rate of 25%, is granted to a corporation for salaries paid to eligible employees working in the course of carrying out an eligible contract. Such a corporation must, however, obtain an eligibility certificate from Investissement Québec confirming that it is reasonable to consider that the completion of the eligible contract it has concluded will lead to the creation of a minimum of 150 jobs, within 24 months following the date when activities relating to the eligible contract began.

Essentially, this tax credit was introduced to consolidate development of information technology throughout Québec, while encouraging companies to locate and expand here.

Monitoring of this tax credit since its introduction has revealed the need to clarify certain application conditions.

Accordingly, the notion of eligible corporation will be streamlined to enable a corporation that carries out an eligible contract concluded by another corporation, in a business continuation situation, to receive the refundable tax credit regarding major job-creating projects.

In addition, an adjustment will be made to the application details of the tax credit to specify that an eligible corporation must maintain the minimum job creation threshold for a certain period.

☐ Business continuation

As specified above, in order to receive the tax credit, a corporation must obtain an initial eligibility certificate from Investissement Québec confirming that it is reasonable to consider that the execution of the eligible contract it concluded will lead to the creation of a minimum of 150 jobs within the 24 months following the date when activities relating the eligible contract began.

In this context, Investissement Québec cannot issue an eligibility certificate to a corporation that continues to carry on a business whose activities were previously carried out in the course of an eligible contract concluded by another corporation, since the corporation that continues to carry on the business is not the one that concluded the eligible contract.

The tax legislation already stipulates that following a winding-up or merger, the parent corporation or the new corporation is deemed to be, as the case may be, the same corporation as the subsidiary or the replaced corporation and to be its continuation. Investissement Québec can thus consider that, in the context of a business reorganization, the parent corporation or the corporation resulting from a merger is an eligible corporation, for the purposes of the tax credit, even though the eligible contract was concluded by the subsidiary or the replaced corporation.

Accordingly, to ensure the same treatment in situations of business reorganization and business continuation, the notion of eligible corporation will be changed so that a corporation that continues to carry on a business whose activities are covered by an eligible contract concluded by another corporation, may be recognized as an eligible corporation for the purposes of the tax credit, if it otherwise satisfies the other conditions, among others regarding job creation and maintenance.

☐ Maintenance of the minimum job creation threshold

As already noted, the refundable tax credit for major job-creating projects is designed to consolidate the development of information technology throughout Québec, while encouraging companies to locate and expand here.

While such an objective implicitly requires that the corporation maintain the jobs created beyond the period stipulated to achieve the minimum job creation threshold, the existing terms and conditions do not explicitly stipulate this requirement.

Accordingly, the application details of the refundable tax credit for major job-creating projects will be changed to specify that an eligible corporation must not only achieve the minimum job creation threshold but also maintain this threshold for a period whose length will be established essentially according to the length of the eligible contract.

In this regard, Investissement Québec will determine the specific calculation details of this maintenance period. In the course of this determination, Investissement Québec will consider criteria such as the length of the eligible contract and the gradual reduction of activities relating to the execution of the contract.

Should an eligible corporation not be able to maintain the minimum job creation threshold for the entire period applicable to it for an eligible contract, Investissement Québec will then stop certifying eligible employees for any part of the period for which the minimum job creation threshold is not maintained.

The application of these changes will be declaratory.

2.15 Technical changes to the fiscal measures relating to carrying out eligible activities in a designated site

As part of the June 12, 2003 Budget Speech, almost all the fiscal measures relating to carrying out eligible activities in a designated site were abolished. These fiscal measures enabled a corporation to receive tax assistance for a maximum period of nearly ten years ending no later than December 31, 2013.

The rights of taxpayers who already benefited from such measures or who were in the process of benefiting from them were protected. Accordingly, these taxpayers can continue to obtain tax assistance for the period initially stipulated.

Moreover, to prevent a corporation from benefiting indirectly from a fiscal measure that has been eliminated by acquiring a corporation whose entitlement to a fiscal measure was protected, integrity rules were put in place.

Accordingly, a corporation that continues to benefit from a fiscal measure that has been eliminated, but control of which was acquired after June 11, 2003, loses the benefit of the protection that had been extended to it and cannot continue to benefit from the eliminated fiscal measure, barring exceptions. There is no loss of tax assistance for a corporation benefiting from a fiscal measure that has been eliminated and control of which was acquired after June 11, 2003 by another corporation, if such other corporation also benefits from the same fiscal measure.

Similarly, an exception allows certain business reorganizations to be carried out without loss of entitlement to the tax assistance.[61]

Moreover, rules allow a corporation to benefit from tax assistance for the period prior to carrying out its activities in a designated site, where it cannot immediately move into the premises of the designated site because they are not available due to construction, improvement or renovation work.

Since the announcement of the latest changes relating to these fiscal measures that have been eliminated, a number of problems have been brought to the attention of the ministère des Finances.

More specifically, the interaction of the fiscal measures relating to the carrying out of an innovative project in the information technology field and those relating to the carrying out of specified activities in the same field, causes difficulties in the context of the elimination of these fiscal measures and various exception rules.

Moreover, compliance with the principle of the elimination of these fiscal measures may not be assured, despite the fact that the floor space of the designated sites is limited.

Lastly, a third situation concerns the rules that allow a corporation to benefit from tax assistance for the period prior to carrying out its activities in the premises of a designated site, because they are not available due to work being done on them, where the activities are carried out outside Québec during such transition period.

Accordingly, additional changes will be made to the following fiscal measures:

— those relating to the carrying out of an innovative project;[62]

— those relating to the carrying out of specified activities;[63]

— those relating to carrying out eligible activities in E-Commerce Place.

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[61] Clarifications and streamlining measures were made to the exception relating to corporate reorganizations and to the notion of acquisition of control in Information Bulletins 2003-7 of December 12, 2003 (measure 2.1) and 2004-11 of December 22, 2004 (measure 2.1).

[62] A corporation that carries out an innovative project in a biotechnology development centre (CDB) in the biotechnology field is also covered by the various rules, even though in this case these rules are not used to determine eligibility for tax assistance but instead are designed to establish whether or not eligibility for the tax holiday is maintained and the rates of the three tax credits such corporation may benefit from.

[63] The designated sites for such specified activities are new economy centres (CNEs), and include information technology development centres (CDTIs) and CDBs, the Cité du multimédia; and the Centre national des nouvelles technologies de Québec (CNNTQ).

❑ Interaction of the measure relating to the carrying out of an innovative project and that relating to the carrying out of specified activities

In the context of the elimination of fiscal measures relating to the carrying out of eligible activities in a designated site and in view of the various exception rules applicable thereto, the interaction of the fiscal measures relating to the carrying out of an innovative project in the information technology field and those relating to the carrying out of specified activities in the same field causes difficulties.

The currently applicable exception rules generally stipulate the compartmentalization of the fiscal measures to comply with the objective of their elimination. Accordingly, these exceptions apply only to corporations eligible for the same fiscal measure.

More specifically, an exempt corporation (i.e. a corporation carrying out an innovative project) control of which is acquired by a specified corporation (a corporation operating in a CNE, for instance, but not carrying out an innovative project) loses its entitlement to tax assistance because it cannot benefit from the exception applicable to corporations acquired by a corporation that benefits from the same fiscal measure. Similarly, a specified corporation control of which is acquired by an exempt corporation loses its entitlement to tax assistance.

In the specific case of the fiscal measures relating to the carrying out of an innovative project in the information technology field and those relating to the carrying out of specified activities in the same field, the decision to compartmentalize eligibility for them was made with particular objectives in mind.

Accordingly, the main objective of this compartmentalization was to prevent a specified corporation carrying out specified activities in the information technology field from receiving the tax assistance relating to the carrying out of an innovative project by acquiring an exempt corporation and advancing the activities of the innovative project, in order to benefit indirectly from the refundable tax credit for the acquisition or lease of eligible specialized equipment and the tax holiday that only an exempt corporation could benefit from.[64]

Almost three years after the elimination of these fiscal measures, the reasons that justified compartmentalization in this specific type of situation have become less important.

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[64] This compartmentalization also targeted the reverse situation, i.e. preventing an exempt corporation from extending its eligibility for tax assistance to activities other than those relating to the carrying out of its innovative project, particularly during the first years of carrying out its innovative project.

The tax assistance an exempt corporation can receive after its period of eligibility for the tax holiday is similar to the tax assistance a specified corporation can receive, namely a refundable tax credit on salaries.

Changes will accordingly be made to simplify the administrative burden of corporations operating in designated sites, in particular those affected by this type of intersecting group, in compliance with the principle of the elimination of these two fiscal measures.

Accordingly, where an exempt corporation is involved in an acquisition of control[65] with a specified corporation, the exempt corporation will then become a specified corporation.[66]

Consequently, the two corporations will be eligible for tax assistance as specified corporations.

This change will apply automatically, except where the exempt corporation is the one that acquires control of a specified corporation, and the exempt corporation elects not to apply this rule. In such a case, the exempt corporation will remain an exempt corporation, while the specified corporation control of which is acquired will no longer be eligible for tax assistance because of the acquisition of control.[67]

Moreover, the effective date of the eligibility certificate of the specified corporation that previously was an exempt corporation will be, for the purposes of determining the term its eligibility period for this fiscal measure, deemed to be that of the eligibility certificate it held as an exempt corporation. Accordingly, this change will entail no extension of the eligibility period.

In the same vein, an exempt corporation may simply elect to become a specified corporation.[68] In the case where such an election takes effect during the period of the tax holiday from which an exempt corporation can benefit, the latter will end on the effective date of such election. Regarding the refundable tax credit relating to eligible specialized equipment, the corporation may no longer benefit from it after the effective date of such election. However, the specified corporation must continue to satisfy the criteria relating to the use of such an asset.

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[65] To avoid making the text needlessly cumbersome, reference to an acquisition of control of one corporation by another also covers the other types of acquisition of control covered by the exception rules, indirect acquisitions by the parent corporation of a corporation for example.

[66] This change will be deemed to occur immediately prior to the acquisition of control.

[67] Essentially, the purpose of this distinction is to allow the necessary latitude to an exempt corporation that prefers to retain its exempt corporation status because it wishes to be able to claim the refundable tax credit for the acquisition or lease of eligible specialized equipment and the tax holiday that only an exempt corporation can receive.

[68] Note that this situation is comparable to the one applicable to corporations that carry out activities in the field of biotechnology in a CDB, and for which such an election is already explicitly allowed.

Lastly, as in the case of intersecting acquisitions, the effective date of the eligibility certificate of the specified corporation that was previously an exempt corporation will, for the purposes of determining the term its period of eligibility for this fiscal measure, be deemed to be that of the eligibility certificate it held as an exempt corporation.

All these changes will apply retroactively to June 11, 2003, which will enable all transactions to be dealt with on the same basis. In addition, the retroactive application of these changes will help simplify their integration with the other existing rules. Accordingly, the only pivotal application date of the restrictions relating to acquisitions of control will remain June 11, 2003.

☐ Clarification designed to eliminate the fiscal measures and limited space of designated sites[69]

As specified above, almost all the fiscal measures relating to carrying out eligible activities in a designated site were eliminated as part of the June 12, 2003 Budget Speech.

One of the reasons for the very existence of designated sites was for the government to be able to control the costs of this type of fiscal measure. For the same reasons, the current rules stipulate that, to qualify as an employee regarding whom his employer can receive tax assistance, such employee must have space representing a reasonable area for his personal use in the designated site.

Moreover, the same work space may be used by more than one employee with different work schedules. However, such a situation must not result in unduly increasing the number of employees that can enable their employer to receive tax assistance. For instance, such would be the case of a corporation that carried out its activities day and night, seven days a week, by means of different shifts.

In this context, the criterion of space representing a reasonable area for the personal use of an employee in a designated site must also be applied on an overall basis by Investissement Québec.

Accordingly, the number of employees that enable a corporation to receive tax assistance may not, at any time, exceed that corresponding to the number of employees that could enable a corporation to satisfy the criterion relating to the use of a reasonable space, in view of the rental floor space the corporation has in a designated site, for a single shift.

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[69] This clarification will also apply to the fiscal measures relating to e-business activities carried out in certain designated sites. These are premises located either in the Montréal E-Commerce Zone or the CNNTQ.

For greater clarity, this mathematical limit on the number of employees that enable a corporation to benefit from tax assistance is the result of a theoretical calculation. Accordingly, the allocation of the work of employees over different work schedules will not result in reducing this mathematical limit, even if it is not achieved in any shift.

This clarification is intended solely to confirm the fiscal policy applicable in this regard. In this context, this policy will continue to be applied by Investissement Québec for all the designated sites concerned.

☐ Activities carried out outside a designated site before the premises become available

Rules allow a corporation to receive tax assistance relating to designated sites for the period before it begins to carry out its activities in a designated site, where it cannot immediately move into the premises of the designated site because they are not avaiable due to construction, improvement or renovation work.

Currently, there is nothing in the *Taxation Act* to prevent a corporation holding the eligibility certificates required by these fiscal measures from receiving tax assistance regarding its activities carried out outside Québec, during the transition period.

It would not be appropriate that a corporation benefit from an assistance measure specific to the Québec tax system regarding an economic activity carried out outside Québec.

In compliance with this principle, Investissement Québec should not issue eligibility certificates to a corporation in such a case. However, there is a risk that this information is not brought to the attention of Investissement Québec.

In this context, a declaratory amendment will be made to the *Taxation Act* to specify that the activities carried out by a corporation during the transition period before it moves into a designated site must be carried out in Québec to be eligible for tax assistance.

☐ Transfer of responsibility to Investissement Québec concerning biotechnology development centres

Corporations that carry out activities in the biotechnology field in a biotechnology development centre (CDB) can receive tax assistance.

Furthermore, unlike the other fiscal measures relating to carrying out eligible activities in a designated site, those relating to CDBs have not been eliminated. Accordingly, new corporations can begin to carry out activities in a CDB and thus receive tax assistance.

Furthermore, while many responsibilities relating to the administration of this fiscal measure are assigned to Investissement Québec, the responsibility for designating CDBs as well as the maximum floor space and the location of each of them lies with the Minister of Finance.

Currently, the Minister of Finance has designated four CDBs and the overall floor space allocated to all of these CDBs is 21 600 square metres.

Like the other fiscal measures whose administration lies partly with Investissement Québec, the responsibility of designating the maximum floor space and exact location of each of the four CDBs will be transferred to Investissement Québec. However, the overall floor space of the CDBs may not, at any time, exceed 21 600 square metres.

2.16 Adjustment to the eligible labour expenditure relating to a service contract for the purposes of a tax credit intended for businesses

In general, the amount of any government assistance and any non-government assistance, other than an excluded amount, or the amount of any benefit or gain that a taxpayer has received or is entitled to receive, must reduce the amount of the eligible labour expenditure or of the expenses, as the case may be, in the course of calculating the tax credit to which the taxpayer is entitled, so that the amount of expenditures or expenses considered in the calculation of this tax credit is the cost actually assumed by the taxpayer in this regard.

However, where such assistance, such benefit or such gain is received by a subcontractor of a taxpayer that claims a tax credit, regarding the salary of one of his employees who supplied services in the course of a contract giving rise to a tax credit for the taxpayer, the amount of such assistance, such benefit or such gain does not reduce the amount of the eligible labour expenditure of the taxpayer for the purposes of the given tax credit.

Moreover, where the taxpayer who claims a tax credit and the subcontractor that carried out a contract giving rise to a tax credit for the taxpayer are not at arm's length, the application rules of the various tax credits intended for businesses stipulate that the taxpayer cannot receive a tax credit regarding the amount of the labour expenditure actually paid by such subcontractor. In other words, the tax legislation treats the taxpayer and the subcontractor that are not at arm's length as though they were a single entity for the calculation of the taxpayer's eligible labour expenditure, in order not to grant tax assistance regarding a fictitious profit margin.

In this context, it would be consistent to require not only recourse to the real amount of labour expenditure of the subcontractor that is not at arm's length, but also to stipulate the reduction of the amount of assistance, benefit or gain attributable to such expenditure that the subcontractor receives.

Consequently, the tax legislation will be amended to stipulate that, where a subcontractor and a taxpayer are not at arm's length, the amount of government or non-government assistance, of benefit or gain received by the subcontractor of the taxpayer who claims a tax credit, regarding the salary of one of his employees who supplied services in the course of a contract giving rise to a tax credit, must reduce the amount of the taxpayer's eligible labour expenditure for the purposes of the given tax credit.

Similarly, the tax legislation will be amended to stipulate that the amount of government or non-government assistance, of benefit or gain received by the subcontractor from a taxpayer will also reduce the amount of the expenses giving rise to a tax credit for the taxpayer, should such expenses constitute the base of the tax credit, where the taxpayer and the subcontractor that provided services in the course of a contract giving rise to such tax credit are not at arm's length.

This change will apply regarding assistance, benefit or gain received or to be received as of the day following that of the Budget Speech.

2.17 Adjustment to the notion of eligible taxpayer for the purposes of a tax credit intended for businesses

In general, an eligible taxpayer for the purposes of a tax credit intended for businesses is in particular a corporation that has an establishment in Québec and carries on a business there.

In addition, the existing legislation stipulates that a taxpayer must be an eligible taxpayer for the taxation year in which he claims a tax credit intended for businesses.

Moreover, for reasons as various as they are legitimate, a taxpayer may allow a certain period to elapse between the time when expenditures giving rise to a tax credit were incurred and the taxation year in which such a tax credit is actually claimed. However, during such period, the status of the taxpayer may have changed, for instance, he may have ceased to carry on a business in Québec.

Since the existing rules stipulate that a taxpayer's eligibility must be established regarding the taxation year in which he claims a tax credit, a taxpayer could be denied entitlement to a tax credit for the reason that he was not an eligible taxpayer for such taxation year, although he was such a taxpayer at the time the expenditure giving rise to the tax credit was incurred.

To link the time at which a taxpayer must satisfy the eligibility criteria for a tax credit intended for businesses to the time when an expenditure giving rise to such a tax credit was incurred, the tax legislation will be amended to stipulate that, in the course of the application of the tax credits intended for businesses, the taxpayer must satisfy the eligibility criteria at the time he incurs the expenditure giving rise to a tax credit.

The application of this amendment will be declaratory, other than for taxation years prescribed the day of the Budget Speech. Accordingly, it will also apply regarding a year for which a notice of objection, an appeal or a waiver of prescription has been duly served on the Minister of Revenue, before the day of the Budget Speech.

However, concerning a taxation year that is not prescribed the day of the Budget Speech and for which an application for adjustment proves necessary, a taxpayer must have filed such application on the prescription date applicable to such taxation year or that corresponding to the 90th day following the date the law giving effect to this amendment is assented to, which ever occurs later.

3. MEASURES CONCERNING CONSUMPTION TAXES

3.1 Measures to curb tobacco smuggling

Due to the development of tobacco smuggling strategies, the tax losses associated with this illegal activity have increased substantially over the past year. The government thus intends to step up its efforts to curb this means of tax evasion.

Among the different measures to be implemented in this respect, a number of changes will be made to the tobacco tax system so as to provide government authorities with additional means of intervention and enforcement. A bill specifying these changes will be tabled by the Minister of Revenue.

3.1.1 Broadening of intervention powers

☐ Counterfeit tobacco products

Currently, the tobacco tax system provides for different powers of examination, inspection and seizure, thus enabling tax and police authorities to take action, for example, in respect of tobacco products intended for retail sale that are not identified as stipulated under this system.

However, where tobacco products satisfy all identification requirements, these intervention powers cannot be used, even when tax and police authorities know that they are in the presence of counterfeit tobacco products.[70]

Thus, to ensure that the powers of government authorities in the areas of examination, inspection and seizure can be exercised in respect of counterfeit products, the tobacco tax system will be changed to deem that a counterfeit tobacco product is not identified in accordance with the provisions of this system.

This measure will come into force on the date the bill giving effect thereto is assented to.

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[70] For example, when the print quality of the colours on a package of cigarettes differs from that on the genuine product.

❑ Tobacco products sold at prices below the amount of the applicable tax

The current provisions of the tobacco tax system do not allow government authorities vested with powers of examination, inspection and seizure to intervene in situations where tobacco products are sold at retail prices that are much lower than their market value, but equal to or higher than the amount of Québec tobacco tax that is applicable thereto.

When tobacco products are retailed at prices that do not cover the taxes levied by the Québec and federal governments, the legality of these products can be seriously challenged.

In this context, the tobacco tax system will be changed by adding a presumption whereby tobacco products that are retailed at a price lower than an amount representing the total of the federal excise duty, the Québec tobacco tax and related GST are not considered legal products for the purposes of this system.

This measure will come into force on the date the bill giving effect thereto is assented to.

3.1.2 Increase in fines

It is generally acknowledged that an increase in the risk of being caught breaking the law and the amount of the fines punishing an offence both act as significant deterrents to the decision to take part in tobacco smuggling.

Given the steadily growing incidence of contraband activity in the tobacco products sector, it is important not only that the tax and police authorities step up their examination and inspection activities in this sector, but also that offenders be liable to fines that are heavier than the ones that are currently applicable.[71]

Consequently, the amounts of all the fines provided for under the tobacco tax system will be increased by 50%. Moreover, these amounts will increase considerably in the case of repeat offences within a five-year period.

More specifically, the minimum amounts of the fines, which are currently set at $200 and $2 000, will be increased to $300 and $3 000 respectively. As for the maximum amounts, which are currently set at $5 000, $25 000 and $500 000, they will be increased to $7 500, $37 500 and $750 000 respectively.

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[71] For example, currently, a retailer who purchases tobacco products from a person who does not hold the permit required by the *Tobacco Tax Act* is liable to a fine of not less than $2 000 and not more than $25 000, while a person who transports packages of tobacco intended for sale without having in his possession a manifest for the packages thus transported is liable to a fine of not less than the greater of $2 000 or, where applicable, three times the tax that would have been payable, and not more than $500 000.

In the case of repeat offences within a five-year period, the minimum amounts of the fines will rise to $1 000 from $300 and to $10 000 from $3 000, while the maximum amounts will be set at $25 000 instead of $7 500, $125 000 instead of $37 500 and $2 500 000 instead of $750 000.

The table below shows the amounts of the fines charged for offences provided for under the tobacco tax system before and after the changes made to the system.

TABLE 1.8

AMOUNTS OF FINES CHARGED FOR OFFENCES PROVIDED FOR UNDER THE TOBACCO TAX SYSTEM
(dollars)

Before changes		After changes			
		First offence		Repeat offence	
Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
200/day of omission	—	300/day of omission	—	1 000/day of omission	—
200	5 000	300	7 500	1 000	25 000
2 000	25 000	3 000	37 500	10 000	125 000
2 000 or three times the tax, whichever is higher	500 000	3 000 or three times the tax, whichever is higher	750 000	10 000 or three times the tax, whichever is higher	2 500 000

This measure will come into force on the date the bill giving effect thereto is assented to.

3.2 Full fuel tax refund to public carriers

The accessibility of quality, affordable public transit systems is essential to Québec's economic, social and cultural vitality. Furthermore, the use of public transit reduces traffic congestion on road systems, especially in urban centres, and contributes to a healthier environment.

To support this type of transportation, the fuel tax system already grants special treatment to public carriers by entitling them to a refund of 33.33% of the fuel tax paid in respect of fuel used to supply the engines of buses used for public transit. In the case of biodiesel fuel, a refund of 100% can even be claimed.

In order to give public carriers greater financial leeway, the burden of the fuel tax they pay should be lightened.

Accordingly, the fuel tax system will be changed to increase the refund rate of the fuel tax paid in respect of fuel used to supply the engines of buses used for public transit to 100% for all types of fuel.

This measure will apply to fuel acquired by a public carrier after the day of this Budget Speech.

3.3 Fuel tax refund in respect of biodiesel fuel

Under the fuel tax system, diesel fuel is usually taxable, regardless of whether it is derived from petroleum or other sources. Biodiesel fuel is thus subject to the fuel tax.

However, since this renewable fuel can reduce polluting emissions and help to cut greenhouse gases, an initial measure to foster its use in Québec was introduced in the Budget Speech of April 21, 2005, when public carriers were granted a full refund of the fuel tax they pay on biodiesel fuel.

To encourage more widespread use of this type of fuel, the government is going further by henceforth allowing all consumers who acquire biodiesel fuel to claim a refund of the fuel tax paid in this respect.

To this end, a measure will be introduced into the fuel tax system whereby a person who acquires biodiesel fuel can claim a refund of the tax he is obliged to pay in this respect, provided it is not mixed with another type of fuel at the time it is acquired.[72]

To be entitled to this new measure, the person who acquires biodiesel fuel must apply to Revenu Québec for the fuel tax refund, using the prescribed form accompanied by the prescribed supporting documents, and must satisfy the prescribed terms and conditions.

All applications submitted must be in respect of biodiesel fuel acquired over a period of no less than three months and no more than twelve months. Refunds may also be applied for in respect of biodiesel fuel acquired over a period of less than three months, provided that at least 3 000 litres of eligible biodiesel fuel was acquired. In addition, applications must be made within fifteen months following the day of the first eligible acquisition.

This measure will apply to biodiesel fuel acquired after the day of this Budget Speech.

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[72] The government may abolish this condition if biodiesel fuel mixed with other types of fuel ever becomes available on the market, provided suppliers of such a product can guarantee, to the government's satisfaction, the quantity of biodiesel fuel in the mixture at the time it is sold to the consumer.

3.4 Further reduction of the specific tax applicable to alcoholic beverages sold by small-scale producers

As a rule, the rates of the specific tax on alcoholic beverages, other than beer, sold in Québec, are $1.97 per litre or $0.89 per litre, depending on whether they are sold for consumption in an establishment or elsewhere than in an establishment.

However, the specific tax is not applicable to the first 1 500 hectolitres of alcoholic beverages, other than beer, sold in a calendar year in Québec by a small-scale producer whose worldwide volume of such beverages sold in the course of the previous calendar year by him, a producer with whom he is associated under the *Taxation Act* or a producer whose business he has continued to carry on, did not exceed 3 000 hectolitres.

To take into account the development of the activities of small-scale producers of alcoholic beverages, other than beer, since this measure was introduced, the rates of the specific tax will be reduced by approximately 50% on the next 1 500 hectolitres sold.

For greater clarity, on the next 1 500 hectolitres sold, the rates of the specific tax will be set at $0.99 per litre for alcoholic beverages sold for consumption in an establishment, and at $0.45 per litre for alcoholic beverages sold for consumption elsewhere than in an establishment.

The table below shows the specific tax rates on alcoholic beverages, other than beer, sold by small-scale producers before and after the new reduction.

TABLE 1.9

RATES OF THE SPECIFIC TAX ON ALCOHOLIC BEVERAGES, OTHER THAN BEER, SOLD BY SMALL-SCALE PRODUCERS
(dollars per litre)

	Rate before new reduction		Rate after new reduction	
Quantity sold	**In an establishment**	**Elsewhere than in an establishment**	**In an establishment**	**Elsewhere than in an establishment**
First 1 500 hectolitres	0	0	0	0
Next 1 500 hectolitres	1.97	0.89	0.99	0.45
Subsequent quantities	1.97	0.89	1.97	0.89

Moreover, the worldwide volume of alcoholic beverages, other than beer, sold in the course of a calendar year above which a small-scale producer can no longer apply the reduced rates will be increased from 3 000 to 5 000 hectolitres.

This measure will apply to all alcoholic beverages, other than beer, sold by small-scale producers after the day of the Budget Speech.

3.5 Refund of the first $1 000 of Québec sales tax paid on a hybrid vehicle

The use of hybrid vehicles instead of conventional vehicles, which are equipped solely with an internal-combustion engine, can reduce polluting emissions and help to cut greenhouse gases.

Thus, in order to encourage the use of fuel-efficient hybrid vehicles, the Québec sales tax (QST) system will be changed to introduce a partial refund of this tax paid in respect of the sale or long term leasing of such vehicles.

More specifically, a person who purchases or takes out a long term lease on a new hybrid vehicle, prescribed by the Minister of Revenue, may claim a refund of the QST paid in respect of the sale or leasing of that vehicle, up to a maximum of $1 000. However, this refund may not be claimed by a person who is a registrant under the QST system, or by a person who is entitled to a refund of the QST paid in respect of this sale or leasing under other provisions of this system.

For the purposes of the prescription of a hybrid vehicle – of a given make and year and from a given manufacturer – the Minister of Revenue must be convinced that this vehicle's fuel consumption, on the highway or in the city, is 6 litres or less per 100 kilometres.

For the purposes of this measure, the expression "hybrid vehicle" shall refer to a motor vehicle whose energy output is ensured by the combination of a heat engine and an electric motor. As for the expression "long term leasing", it shall refer to leasing for a term of at least twelve months.

To claim this QST refund, the buyer or lessor of a hybrid vehicle must apply therefor to Revenu Québec using the prescribed form accompanied by the prescribed supporting documents, and must satisfy the prescribed terms and conditions. In addition, the application must be made within four years of the day on which the buyer or lessor pays the QST.

This measure will apply to a new hybrid vehicle that has been purchased or for which a long term lease has been taken out after the day of the Budget Speech and before January 1, 2009.

4. OTHER MEASURES

4.1 Tax treatment applicable to taxable dividends

On November 23, 2005, the federal Minister of Finance announced in a news release[73] changes to the tax treatment of dividends paid by large corporations after December 31, 2005.

In short, the changes introduce the concept of eligible dividends to enable the tax treatment applicable to income received as dividends by shareholders of large corporations to take greater account of the tax burden shouldered by the corporation paying the dividend. Through this change, the federal government aims to achieve a more balanced tax treatment between corporations and publicly listed flow-through entities by eliminating the double taxation of dividends under the federal tax system.

Henceforth, the federal tax system distinguishes between two categories of dividends:

— eligible dividends, which are paid out of the paying corporation's income taxed at the general corporate income tax rate; and

— ordinary dividends, which are paid out of the paying corporation's income taxed at the reduced corporate income tax rate,[74] or out of the corporation's investment income taxed at the top corporate income tax rate.

In sum, the changes to the federal tax system in respect of dividend income consisting of eligible dividends provide for a dividend gross-up of 45% and a tax credit equal to 19% of the grossed-up dividend. Ordinary dividends will be treated the same as before the announcement of November 23, 2005, i.e. the federal tax system provides for a dividend gross-up of 25% and a tax credit equal to 13.33% of the grossed-up dividend.

☐ Québec tax system

It should first be noted that up until January 1, 2006, Québec's corporate tax system, unlike the federal system, provided for a single tax rate applicable to the active income of corporations, rather than a reduced tax rate and a general tax rate as at the federal level.

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[73] News release 2005-082 of the Department of Finance Canada.

[74] The rate applies to the first $300 000 of annual income from an eligible business carried on by a Canadian-controlled private corporation (CCPC).

Second, given that the gross-up of dividend income and the dividend tax credit were established for the Québec tax system on the basis of a single tax rate applicable to the active income of corporations, it should also be noted that, unlike in the federal tax system, the tax treatment of dividends under the Québec tax system does not lead to double taxation of Québec taxpayers under the provincial tax system.

Furthermore, the Budget Speech of April 21, 2005, announced changes to the corporate tax rates. More specifically, it was announced that as of January 1, 2006,[75] the taxation rate applicable to the active income of small businesses would be reduced to 8.5% under the Québec tax system, while the general tax rate applicable to the active income of corporations would be gradually increased to 11.9% in 2009.[76] Thus, as of January 1, 2006, the corporate tax rate structure under the Québec and federal tax systems are similar.

However, since the Québec government endorses the principle of integration of the corporate and personal income tax systems, and in order to avoid making the taxation of Québec taxpayers unnecessarily complex, the Québec legislation will be harmonized with the federal legislation with regard to the changes announced by the federal government on November 23, 2005, and adjustments will be made to the dividend tax credit.

☐ Harmonization of the Québec legislation

Québec's tax legislation and regulations will be amended to incorporate the rules relating to the concept of eligible dividends, adapting them according to their general principles. However, these measures will not be adopted until after the approval of any federal law or the adoption of any federal regulation arising from the announcement made on November 23, 2005, taking into account technical amendments that might be made prior to the approval of the law or the adoption of the regulation.

The Québec legislation will be amended to increase the gross-up of dividend income from 25% to 45% for dividend income consisting of eligible dividends.

For greater clarity, the gross-up of all taxable dividend income other than eligible dividend income will stay the same, at 25%.

☐ Adjustment of the dividend tax credit

Under the existing legislation, the Québec dividend tax credit is equal to 10.83% of the grossed-up dividend.

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[75] The rate of 8.5% applies to the first $400 000 of annual income from an eligible business carried on by a CCPC. However, the rate has been lowered to 8% in this Budget Speech (see sub-section 2.1).

[76] More specifically, the rate has been set at 9.9% for 2006 and 2007, 11.4% for 2008 and 11.9% for 2009 and subsequent years.

To follow through on the harmonization of the Québec and federal legislation in respect of the tax treatment of dividends and to ensure better integration of Québec's corporate and personal income tax systems at the end of the reform of the tax rate structure explained above, i.e. in 2009, the Québec dividend tax credit will be increased for dividend income consisting of eligible dividends to equal 11.9% of the grossed-up dividend.

Furthermore, to ensure the same integration of the corporate and personal income tax systems with regard to dividend income consisting of a dividend other than an eligible dividend, the Québec dividend tax credit applicable to such dividend income will be reduced to equal 8% of the grossed-up dividend.

☐ Application date

These changes will apply to dividends that are paid or are deemed to have been paid after the day of the Budget Speech.

4.2 Reduction in the tax assistance for the acquisition of Capital régional et coopératif Desjardins shares

Capital régional et coopératif Desjardins is an investment corporation whose mission is to raise venture capital for Québec's resource regions and the cooperative community.

Since the corporation's creation in 2001, the government has supported its growth by granting individuals who acquire shares of the corporation a tax benefit in the form of a non-refundable tax credit equal to 50% of the issue price of the shares, up to $2 500. Individuals who acquire Capital régional et coopératif Desjardins shares receive an income tax reduction of up to $1 250 per year.

Originally, it was stipulated that the paid-up capital of issued and outstanding shares of the corporation could increase by $150 million per capitalization period, up to a maximum amount of $1.5 billion on February 28, 2011.[77]

In a context of tightening tax expenditures, the government has taken steps in each of the last three years to reduce its participation in the corporation's growth. Each time, tax expenditures were curtailed by reducing the corporation's authorized capital.

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[77] The date of the end of the last capitalization period for which the corporation is authorized to collect capital giving entitlement to a tax benefit.

To prevent new action from influencing the corporation's growth prospects, on February 22, 2006, the government announced a moratorium on Capital régional et coopératif Desjardins' share issue until the day of the Budget Speech.[78]

Furthermore, in five years, the government has contributed over $285 million to the corporation's growth. Given the rate at which the corporation's authorized capital is expected to increase between now and February 28, 2011,[79] additional government participation estimated at $560 million over the next five fiscal years is foreseen.

In view of the fact that after barely five years, Capital régional et coopératif Desjardins is well positioned as a player in the venture-capital sector, the government's future participation in its growth will be scaled back.

However, to enable the corporation to reach its maximum capitalization by the planned deadline, the reduction in government aid will involve a lowering of the rate used to calculate the tax credit respecting the acquisition of Capital régional et coopératif Desjardins shares.

❑ Reduction of the tax assistance for the acquisition of Capital régional et coopératif Desjardins shares

The rate used to calculate the tax credit respecting the acquisition of Capital régional et coopératif Desjardins shares will be lowered from 50% to 35% for shares acquired after the day of the Budget Speech. Thus, the maximum amount that individuals may deduct in the calculation of their income tax otherwise payable for a given taxation year, for shares acquired during a capitalization period having started this year, will decrease from $1 250 to $875.

❑ Lifting of the moratorium

The moratorium on the issue of Capital régional et coopératif Desjardins shares will be lifted on the day following the day of the Budget Speech.

As of the day after the Budget Speech, the corporation will be able to start a new capitalization period that will end on February 28, 2007. During this and all subsequent capitalization periods, the corporation may increase its authorized capital by $150 million, reaching $1 325 million in its last capitalization period starting on March 1, 2010, and ending on February 28, 2011.

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[78] Information Bulletin 2006-1.

[79] Under the existing legislation, the corporation's authorized capital may increase by $150 million per capitalization period, reaching $1 325 million on February 28, 2011. However, note that to reach its authorized capital, the corporation may issue shares amounting to more than $150 million in its last three capitalization periods given that during those periods, it will have to redeem the shares issued at least seven years previously.

The table below presents the maximum amount that the paid-up capital of the issued and outstanding shares of Capital régional et coopératif Desjardins may reach up to February 28, 2011.

TABLE 1.10

MAXIMUM AUTHORIZED CAPITAL
(millions of dollars)

Capitalization period	Maximum capital
From the day after the day of the Budget Speech to February 28, 2007	725
From March 1, 2007, to February 29, 2008	875
From March 1, 2008, to February 28, 2009	1 025
From March 1, 2009, to February 28, 2010	1 175
From March 1, 2010, to February 28, 2011	1 325

Should the paid-up capital of issued and outstanding shares of Capital régional et coopératif Desjardins capital stock exceed, at the end of a capitalization period having begun after the day of the Budget Speech, the maximum paid-up capital provided for for that period, the corporation must pay, no later than the May 31 following the end of that period, a special tax equal to 35% of the excess amount, from which must be deducted all of the amounts paid as this special tax for a previous capitalization period.[80]

❑ Consequential amendment

The tax legislation stipulates that where Capital régional et coopératif Desjardins redeems or purchases a share less than seven years after the date the share was issued, the person who acquired the share, hereafter called the "buyer," or the person who inherited such a share, is required to pay, for the taxation year during which the share was redeemed or purchased, tax equal to the amount obtained by applying the percentage of the number of days the share was not held[81] to the lesser of half the amount paid by the buyer to acquire the share and its redemption price or mutually agreed purchase price.

To account for the reduction in the rate used to calculate the tax credit from 50% to 35%, the tax legislation will be amended to provide that the tax thus calculated shall apply to shares purchased between July 1, 2001, and the date of the Budget Speech.

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[80] For greater clarity, this tax will replace the special tax respecting Capital régional et coopératif Desjardins shares applicable to the capitalization period ending no later than the date of the Budget Speech.

[81] The percentage obtained by dividing, by 2 556, the excess of 2 556 over the number of days included in the period that begins on the day that the share was issued and ends on the day that it was redeemed or purchased by mutual agreement.

The tax legislation will also be amended to provide that where a share issued after the day of the Budget Speech is redeemed or purchased by the corporation less than seven years after the date the share was issued, the buyer or person who inherited such a share is required to pay, for the taxation year during which the share was redeemed or purchased, tax equal to the amount obtained by applying the percentage of the number of days the share was not held to the lesser of 35% of the amount paid by the buyer to acquire the share and its redemption price or mutually agreed purchase price.

4.3 Measures concerning the Cooperative Investment Plan

For over 20 years, the government has supported the capitalization efforts of cooperatives[82] by granting a tax benefit, through the Cooperative Investment Plan (CIP), to individuals who acquire securities issued by an eligible cooperative.

The March 30, 2004 Budget Speech announced the creation of a new plan to ensure that capitalization assistance is directed to cooperatives that genuinely need it.

To achieve that goal, a cooperative's eligibility for the new CIP is determined using more rigorous criteria, which are assessed on the basis of the last full fiscal year. The plan also increases the permanent capital of cooperatives: a security issued under the new CIP cannot be redeemed or refunded until the expiration of a period of at least five years beginning on its issue date; if it does, the cooperative incurs a penalty.[83]

Various measures were also introduced to preserve the integrity of the plan, including a special tax that applies specifically to shareholding workers cooperatives that,[84] even though they are not formed to actively carry on a business, are one of the types of cooperatives that may be eligible for the CIP. This special tax aims to ensure that the tax assistance for the capitalization of shareholding workers cooperatives is directed to the primary goal of this type of cooperative, namely, the acquisition and holding of shares in a company that employs their members.

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[82] In the interests of readability, all references to a cooperative include a federation of cooperatives.

[83] A security issued prior to the reform of the CIP is redeemable as of the year following the two years following the year in which the security was issued, provided that the reserve has increased by 50%.

[84] Shareholding workers cooperatives are cooperatives composed exclusively of natural persons whose goal is to acquire and hold shares of the company that employs them and whose purpose is to provide work to their members (including their auxiliary members) through the business carried on by such company. This type of cooperative enables its members to be, through it, collectively shareholders of the company that employs them.

In the wake of representations made by the cooperative sector, the ministère du Développement économique, de l'Innovation et de l'Exportation (MDEIE) formed a committee in April 2005 composed of the major partners and players involved in the development of shareholding workers cooperatives.

The committee's work brought to light a number of issues shareholding workers cooperatives must deal with and that may make the rules of the new CIP seem restrictive.

To better adapt the plan to the needs and realities of the cooperative sector without jeopardizing the government's goal of preserving the integrity of the plan, certain aspects of the new CIP will be made more flexible.

4.3.1 Special tax on the excess capital of shareholding workers cooperatives

Under the existing rules, a shareholding workers cooperative must pay a special tax where the total of the amounts paid regarding securities eligible for the CIP[85] outstanding at the end of a given year exceeds 115% of the cost of the shares held in the company that employs the members of the cooperative. The special tax thus payable is equal to 30% of such excess and may be recovered if the excess capital declines during a subsequent year.

However, no special tax is payable regarding the portion of an excess capital that is attributable to a period prior to the date of issue of the first eligibility certificate authorizing a shareholding workers cooperative to issue securities eligible for the new plan.

More specifically, when, during a given calendar year, a shareholding workers cooperative that holds an eligibility certificate for the new CIP has issued securities eligible for the plan, redeemed securities eligible for the former or the new CIP or acquired shares of the company that employs its members, a formula, hereafter called "adjustment formula," must be applied to determine whether the cooperative must pay a special tax or may recover all or part of the special tax previously paid.

If the adjustment formula applied to a given calendar year yields a positive amount, the cooperative is required to pay, no later than March 31 of the year following the given calendar year, an amount equal to the positive amount thus obtained. However, if the formula yields a negative amount, the cooperative may claim a refundable tax credit, equal to the negative amount thus obtained, for its taxation year in which the given calendar year ends or whose end coincides with such year.

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[85] Securities eligible for the CIP include both securities issued before the reform as well as those issued after the reform.

In fall 2005, the committee on shareholding workers cooperatives created by the MDEIE informed the ministère des Finances of certain difficulties relating to this special tax and, at the same time, called on it to postpone the date on which the special tax is payable for the 2005 calendar year to allow the committee to finish studying the effects of the tax on the operations of shareholding workers cooperatives.

The ministère des Finances was kept abreast of the committee's work. It was clear that some of the issues highlighted through the committee's work required further study to ensure that the government's goal of preserving the integrity of the CIP was consistent with the capitalization characteristics of shareholding workers cooperatives.

Consequently, it was announced on December 19, 2005, that the deadline for paying the special tax payable for the 2005 calendar year would be pushed back from March 31 to June 30, 2006.[86]

After examining the situation, it was clear that the special tax applicable to the excess capital of shareholding workers cooperatives needed to be maintained. However, to better recognize the fact that these cooperatives are often invited to participate, other than in the form of capital stock, in the financing of the company employing their members, investments in the form of debentures may be taken into account for the purposes of calculating the special tax, retroactively to the 2004 calendar year, i.e. the first year in which the special tax could be applied.

In addition, to account for the obligations arising from certain financial arrangements entered into to enable the acquisition of non-guaranteed investments issued by a company that employs the members of a shareholding workers cooperative, special rules will be introduced to mitigate the effects of the special tax in respect of such arrangements.

More specifically, for the 2004 and subsequent calendar years, if, during a given calendar year, a shareholding workers cooperative that holds an eligibility certificate for the new CIP issued securities eligible for the plan, redeemed securities eligible for the former or the new CIP, acquired shares or debentures of the company that employs its members, or disposed of such investments, the adjustment formula presented below will be applied.

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[86] Information Bulletin 2005-7.

Adjustment formula

$$30\% \left[A - \left[B + C \right] \right]^{87} + D - E$$

Excess capital	Protected basic excess	Protected additional excess	Accrued tax credits	Cumulative tax payable
A	B	C	D	E
The excess of the total of the amounts paid regarding securities eligible for the CIP[88] outstanding at the end of the calendar year over the set percentage for the year of the cost of acquisition[89] of all the contemplated investments held at the end of such year.	The excess of the total of the amounts paid regarding securities eligible for the CIP outstanding immediately prior to the issue of the first eligibility certificate for the new CIP over the cost of acquisition of all of the contemplated investments held at that time.	The excess of the total of the amounts paid regarding securities eligible for the CIP outstanding at time of transition (maximum 165% of the cost of acquisition of all of the contemplated investments held at that time) over 115% of the cost of acquisition of all of the contemplated investments held at that time.	The total of all the amounts that the cooperative is entitled to obtain as a refundable tax credit for a prior calendar year further to the application of the adjustment formula.	The total of all the amounts that the cooperative was required to pay for a prior calendar year further to the application of the adjustment formula.

For the purposes of Variable A of the adjustment formula, the expression "set percentage" means:

- 165%, if the cooperative was established prior to the day following the day of the Budget Speech and if the year for which the adjustment formula is applied falls before 2012 and is not a year in which the cooperative invested in shares or debentures, other than such an investment made prior to the day following the day of the Budget Speech, in the company that employs its members (contemplated investments);

- 115 %, in all other cases.

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[87] If the amount obtained from the subtraction is less than zero, such amount will be deemed equal to zero.

[88] *Supra*, Note 85.

[89] For the purpose of the adjustment formula, the cost of acquisition of an investment must be determined without taking into account the costs of borrowing, brokerage, custody or other similar expenses associated therewith.

The expression "contemplated investments" used in variables A, B and C of the adjustment formula means any investment held by a cooperative, in the form of shares or debentures, in the company that employs its members. However, only a debenture that has been held by the cooperative for a continuous period of 120 days comprising the time when all its investments in the company must be determined may be considered a contemplated investment.

The expression "time of transition" used in Variable C means the time immediately prior to January 1, 2012, or the time immediately prior to the acquisition of an investment made after the day of the Budget Speech but before January 1, 2012, whichever is closer.

Variable B (protected basic excess) of the adjustment formula prevents a special tax from being payable regarding the portion of capital considered to be in excess that is attributable to a period prior to the date of issue of the first eligibility certificate authorizing a shareholding workers cooperative to issue securities eligible for the new plan.

Variable C (protected additional excess) prevents a special tax from being payable regarding the portion of capital deemed to be in excess that is attributable to a period prior to the time of transition, which will occur at the end of December 31, 2011, or, if it is prior to that, the time immediately prior to the acquisition of an investment. The protected additional excess may equal an amount up to 50% of the cost of acquisition of investments held by a shareholding workers cooperative, immediately before the time of transition, in the company that employs its members.

Thus, a cooperative that is already incorporated may apply a rate of 165% to the cost of its investments in calculating the special tax, up until December 31, 2011, except if it acquires, before that date and after the day of the Budget Speech, a new investment. Thereafter, it must calculate the special tax by applying a rate of 115% to the cost of its investments.

The table below illustrates the example of a shareholding workers cooperative that was authorized to issue securities eligible for the CIP under the rules existing prior to the reform and that obtained its eligibility certificate for the new CIP in 2005.

TABLE 1.11

EXAMPLE OF THE SPECIAL TAX REGARDING EXCESS CAPITAL OF SHAREHOLDING WORKERS COOPERATIVES

(dollars)

	2005	2006	2007	2008	2009	2010	2011
CIP equity							
Total CIP equity consisting of securities(1)	200 000	365 000	530 000	683 000	848 000	1 028 000	1 203 000
+ CIP issue during the year	165 000	165 000	165 000	165 000	180 000	340 000	375 000
– CIP redemption during the year	—	—	(12 000)	—	—	(165 000)	(165 000)
= *Equity as at December 31 of the year*	**365 000**	**530 000**	**683 000**	**848 000**	**1 028 000**	**1 203 000**	**1 413 000**
Investments in the company(2)							
Investments at cost(1)	165 000	600 000	600 000	600 000	600 000	600 000	900 000
+ Cost of investments acquired during the year	435 000	—	—	—	—	300 000	—
– Proceeds from disposal of investments during the year	—	—	—	—	—	—	—
= *Investments as at December 31 of the year*	**600 000**	**600 000**	**600 000**	**600 000**	**600 000**	**900 000**	**900 000**
Calculation of special tax or refundable tax credit							
Equity as at December 31 of the year	365 000	530 000	683 000	848 000	1 028 000	1 203 000	1 413 000
– 165% of investments as at December 31 of the year, or(3)	(990 000)	(990 000)	(990 000)	(990 000)	(990 000)	—	—
– 115% of investments as at December 31 of the year	—	—	—	—	—	(1 035 000)	(1 035 000)
= *Excess capital* (a negative result is deemed equal to 0)	**0**	**0**	**0**	**0**	**38 000**	**168 000**	**378 000**
Excess capital	0	0	0	0	38 000	168 000	378 000
– Protected basic excess(4)	(35 000)	(35 000)	(35 000)	(35 000)	(35 000)	(35 000)	(35 000)
– Protected additional excess(5)	—	—	—	—	—	(300 000)	(300 000)
= *Capital not eligible for CIP* (a negative result is deemed equal to 0)	**0**	**0**	**0**	**0**	**3 000**	**0**	**43 000**
30% of the amount of capital not eligible for CIP	0	0	0	0	900	0	12 900
+ Accrued tax credits(6)	0	0	0	0	0	0	900
– Cumulative tax payable(6)	0	0	0	0	0	(900)	(900)
= *Result(7)*	**0**	**0**	**0**	**0**	**900**	**(900)**	**12 900**

(1) As at December 31 of the previous year (or as at the date of issue of the eligibility certificate for the new CIP if that date is later).

(2) Investments in the form of shares or debentures.

(3) Only one of the two limits may apply in the same year.

(4) An amount equal to the excess of the total of the amounts paid regarding securities eligible for the CIP that are outstanding immediately prior to the issue of the first eligibility certificate for the new CIP over the cost of acquisition of all of the investments (in shares or debentures) that the cooperative held, at that time, in the company that employs its members.

(5) An amount equal to the excess of the total of the amounts paid regarding securities eligible for the CIP that are outstanding on December 31, 2011 – or immediately prior to the acquisition of an investment made after the day of the Budget Speech and before January 1, 2012 – up to 165% of the cost of acquisition of all of the investments (in shares or debentures) that the cooperative held, at that time, in the company that employs its members, over 115% of the cost of acquisition of all of such investments that the cooperative held at that time.

(6) For any calendar year prior to the one to which a calculation applies.

(7) A positive figure means the special tax is payable. A negative figure means that the cooperative may claim a refundable tax credit.

4.3.2 Redemption of securities eligible for the CIP

The CIP boosts the capitalization of a cooperative by entitling some individuals who acquire securities eligible for the plan to a deduction in the calculation of their taxable income.

In general, the CIP allows the members and employees of a cooperative to participate in its capitalization. However, in some cases, this entitlement is extended to the employees of partnerships of which a cooperative is a member and the employees of its subsidiaries.

Partnerships that are members of an agricultural cooperative may also participate in the capitalization of such cooperative under the CIP. In this case, it is the eligible members[90] of the partnership that are entitled to a deduction in the calculation of their taxable income for the securities eligible for the CIP acquired by the partnership.

If an agricultural cooperative has a legal person as a member, the individual who holds at least 10% of the voting shares of the legal person is entitled to participate in the capitalization of the cooperative under the CIP.

It is also possible for a trust governed by a registered retirement savings plan (RRSP) to acquire a security issued under the CIP on behalf of the annuitant of the plan, where the annuitant is an individual who is eligible to participate in the CIP. The individual is deemed to have acquired the security himself for the purposes of calculating the deduction regarding the CIP.

Currently, a security issued by a cooperative is eligible for the CIP and gives entitlement to a tax benefit only if it cannot be redeemed or refunded until the expiration of a period of at least five years beginning on its issue date. The purpose of this condition is to ensure a degree of permanence to the capital collected using the tax assistance.

Furthermore, the CIP provides for a penalty if a cooperative redeems or refunds a security before the minimum five-year holding period has expired. The amount of the penalty, payable by the cooperative, is equal to 30% of the amount of the security redeemed or refunded.

Clearly, in certain circumstances, the condition regarding non-redemption of a security during a minimum holding period of five years could be restricting, notably where a cooperative and the acquirer of a security issued by the cooperative under the CIP are no longer linked by use or employment.

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[90] As a rule, an eligible member of a partnership is an individual who is a member of the partnership at the end of its fiscal year and who performs the activities of agricultural producer through the partnership.

Changes will therefore be made to ease this condition in respect of a security issued by a cooperative after the day of the Budget Speech.

More specifically, the condition whereby a security cannot be redeemed or refunded until the expiration of a period of at least five years beginning on the date the security was issued by a cooperative will be eased so that the security may be redeemed or refunded before the expiry of the five-year holding period, at the discretion of the cooperative's board of directors, provided the redemption or refund is allowed.

However, to reconcile the easing of conditions with the underlying objective of the five-year minimum holding period, which is to ensure a certain degree of longevity of the capital raised with the tax assistance, the deduction regarding the CIP will, in all cases of an allowable redemption or refunding of a security, be recovered through a special tax calculated according to a percentage of the number of days the security was not held during the five-year minimum holding period.

❑ Allowable redemption or refund

A security issued under the new CIP may be redeemed or refunded before the expiry of a minimum period of five years beginning on the date the security was issued by a cooperative on the following conditions:

— if the security is held by an individual who acquired it as first acquirer and who is a member of the cooperative, if the individual dies or resigns or is excluded as member of the cooperative;

— if the security is held by a trust governed by an RRSP or a registered retirement income fund (RRIF) of which the annuitant is an individual who is a member of the cooperative and the security was acquired, as first acquirer, by the individual or a trust governed by an RRSP of which he is the annuitant, if the individual dies or resigns or is excluded as member of the cooperative;

— if the security is held by an individual who is not a member of the cooperative and who acquired the security, as first acquirer, in his capacity as an employee of the cooperative, an employee of a partnership of which the cooperative is a member, or an employee of a subsidiary of the cooperative, if the individual dies, stops working or becomes disabled;[91]

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[91] For the purposes of allowable redemptions or refunds, an individual will be considered disabled only if he is declared as having a severe and prolonged mental or physical impairment that renders him unable to continue working.

— if the security is held by a trust governed by an RRSP or RRIF of which the annuitant is an individual who is not a member of the cooperative and the security was acquired, as first acquirer, either by the individual as an employee of the cooperative, a partnership of which the cooperative is a member or a subsidiary of the cooperative, or by a trust governed by an RRSP of which he was the annuitant, if the individual dies, stops working or becomes disabled;[92]

— if the security is held by a partnership that acquired the security as first acquirer and is a member of the cooperative, if the partnership resigns or is excluded as member of the cooperative;

— if the security is held by an individual who is not a member of the cooperative but is a shareholder of a legal person that is a member of that cooperative and the security was acquired by that individual, as first acquirer, if the individual dies or the legal person resigns or is excluded as member of the cooperative;

— if the security is held by a trust governed by an RRSP or RRIF of which the annuitant is an individual who is not a member of the cooperative but is a shareholder of a legal person that is a member of that cooperative and the security was acquired, as first acquirer, by the individual or a trust governed by an RRSP of which he is the annuitant, if the individual dies or the legal person resigns or is excluded as member of the cooperative.

For greater clarity, if a cooperative redeems or refunds a security issued under the new CIP before the five-year minimum holding period expires, other than an allowable redemption or refund, the cooperative will still be subject to the 30% penalty applicable in the case of early redemption or refund. The penalty will be applied to the full amount of the security that is redeemed or refunded.

However, this penalty will be eased for securities that are redeemed or refunded as part of the winding-up or dissolution of the cooperative. In such cases, the penalty will be equal to 30% of the amount obtained by applying, to the amount of the securities that are redeemed or refunded, the percentage attributable to the number of days the securities were not held.[93]

❑ Recovery of the tax benefit

Where a security issued under the new CIP is covered by an allowable redemption or refund, the deduction regarding the CIP will be recovered by means of a special tax.

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[92] Idem.

[93] The percentage obtained by dividing, by 1 826, the excess of 1 826 over the number of days included in the period that begins on the day that the security was issued and ends on the day that it is redeemed or refunded.

- **Calculation of the tax payable**

The tax will be equal to the amount obtained using the following formula:

$[(1\,826 - A) / 1\,826] \times B$

For the purposes of this formula, "A" represents the number of days included in the period underway on the day the security was issued and ending the day the security is redeemed or refunded.

"B" represents 25% of the cost of the security[94] to the individual or the trust governed by an RRSP of which he was the annuitant when the security was acquired, or the amount paid by the cooperative to redeem or refund the security, whichever is lower.

For greater clarity, if the security is redeemed or refunded to a partnership, the cost that must be considered shall be equal to the proportion of the cost of the security to the partnership represented by the eligible members'[95] participation as a whole in the partnership's income or loss for the fiscal year during which it acquired the security. For that purpose, an eligible member's participation in a partnership's income or loss corresponds to the ratio between that member's share of the partnership's income or loss for the contemplated fiscal year and the partnership's income or loss for that fiscal year.

- **Payment of the tax**

Cooperatives are required to withhold the tax on the amount payable when a security is redeemed or refunded. They must remit the amounts thus withheld to Revenu Québec, on behalf of persons required to pay the tax, no later than 30 days following the date on which the security is redeemed or refunded.

In addition, cooperatives must pay to Revenu Québec, on behalf of the person required to pay the tax, any portion of the tax payable by that person that was not withheld at source upon the redemption or refunding of the security. However, they may recover from that person the amount of tax thus paid.

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[94] The cost of the security must be determined without taking into account the costs of borrowing or the costs inherent in its acquisition.

[95] *Supra*, Note 90.

4.3.3 First fiscal year

Currently, the MDEIE may, upon application by a cooperative, issue an eligibility certificate to it for the new CIP if, at the end of the fiscal year ending in the calendar year preceding the authorization application, the cooperative satisfies, among other things, the criteria relating to the territoriality of the activities, the situs of its assets and, as the case may be, the capitalization rate.

A cooperative must have completed its first fiscal year before being able to send the MDEIE an application for an eligibility certificate for the CIP authorizing it to issue securities giving rise to a tax benefit.

However, this requirement may put certain start-up cooperatives, particularly shareholding workers cooperatives, at a disadvantage because, without tax assistance, the risk that must be shouldered by their members creates an obstacle to the cooperative's capitalization.

Given this context, the rules of the new CIP will be relaxed so that the MDEIE may issue an eligibility certificate to a cooperative even if it has not completed its first fiscal year, if it is convinced that the cooperative will satisfy all of the applicable eligibility criteria at the end of its first fiscal year.

This change will apply as of the day following the day of the Budget Speech.

4.4 Adjustments to the investment requirements of tax-advantaged funds

Since the creation of the Fonds de solidarité des travailleurs du Québec, Fondaction – the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi – and Capital régional et coopératif Desjardins, the government has supported the growth of these investment corporations by allowing them to collect capital enjoying a tax benefit in the form of a non-refundable tax credit for individuals who acquire their shares.

Since financing of these corporations is facilitated by the granting of a tax benefit, investment requirements have been included in the acts under which they were established to ensure, in particular, that the funds collected are used as a financing tool to foster the growth of Québec entities.

Each of the acts under which these investment corporations were established stipulates that, in the course of each fiscal year, the proportion of investments made in eligible entities by the corporation concerned, entailing no security or hypothec, must represent, on average, at least 60% of its average net assets for the previous year.

If the corporation fails to comply with this investment requirement, hereafter referred to as the "60% requirement," it incurs a sanction.

To ensure that the 60% requirement is better adapted to capital markets, various adjustments will be made to the *Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.)*, the *Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* and the *Act constituting Capital régional et coopératif Desjardins*.

4.4.1 Investments in private funds outside Québec

In the April 21, 2005 Budget Speech, various changes to the investment requirements of labour funds were announced with the aim of promoting investments that could be conducive to injecting private foreign capital into Québec businesses.

To that end, a new category grouping all investments outside Québec was created. Such investments must be made in accordance with an investment policy adopted by the board of directors of a given labour fund and approved by the Minister of Finance.

Investments, entailing no security or hypothec, made in a private fund outside Québec may be included in this category provided they give rise to a return of capital to the benefit of Québec businesses.

More specifically, it was provided that for the purposes of application of the 60% requirement to a given fiscal year, any investment in a private fund outside Québec would be eligible, up to, where the given fiscal year is subsequent to the year following the year in which an initial investment was made in the private fund in accordance with the investment policy, the amount which, after the initial investment, is invested by the private fund in a partnership or legal person actively carrying on a business, the majority of whose employees are resident in Québec and whose assets are less than $100 million or whose net equity is below $50 million.

An investment made by a labour fund in a private fund outside Québec during a given fiscal year is considered to be the initial investment made in that fund if, at the end of the previous fiscal year, the labour fund had no investments in the private fund or had not agreed to make an investment in it for which amounts were committed.

Given that labour funds may be invited to reinvest in private funds outside Québec and that, given the practices of the venture capital industry, a return of capital in Québec cannot be expected before at least two years, various changes will be made to the eligibility conditions for investments in private funds.

❑ Eligibility of investments in private funds

Any investment, entailing no security or hypothec, in a private fund outside Québec will be eligible for the purposes of the 60% requirement for a given fiscal year up to, where the given fiscal year is subsequent to the second year following the year in which a given investment was made in the private fund in accordance with the investment policy, the amount which, after the given investment, is invested[96] by the private fund in a Québec business whose assets are less than $100 million or whose net equity is below $50 million.

In this regard, an investment agreed to at some time with a private fund outside Québec and for which amounts have been committed but not yet disbursed, subject to the allowable 12% limit applicable to non-disbursed investments of labour funds, will be considered a given investment. On the other hand, disbursements as such arising from the investment agreed to with the private fund will not be considered a given investment.

However, if a labour fund does not include, for the purposes of calculating its 60% requirement for a given fiscal year, an investment that it agreed to with a private fund outside Québec during that year and for which amounts have been committed but not yet disbursed, the investment agreed to will not be considered a given investment. However, each disbursement arising from the investment agreed to will be considered a given investment.

❑ Application date

These changes will apply to a given labour fund as of the fund's fiscal year during which the Minister of Finance approved its new policy for investment outside Québec.

4.4.2 Investments in local venture capital funds

To account for the lack of capital for pre-startup or startup businesses, or for businesses in the technology sectors, the April 21, 2005 Budget Speech announced that a new investment category would be eligible for the purposes of the 60% requirement imposed on tax-advantaged funds.

The category would group investments made after April 21, 2005, in local venture capital funds whose primary mission is to invest in eligible entities,[97] provided the investments are made in accordance with an investment policy adopted by the board of directors of the tax-advantaged fund and approved by the Minister of Finance.

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[96] For greater clarity, the amounts invested do not include amounts committed that have not been disbursed.

[97] Essentially, companies actively carrying on a business, the majority of whose employees are resident in Québec and whose assets are less than $100 million or whose net equity is below $50 million.

Any approval by the Minister of Finance of a policy for investment in local venture capital funds would be valid for a maximum of five years after the day on which approval was given.

In addition, to encourage labour funds to invest in such local funds, each dollar thus invested would be matched, for the purposes of the 60% requirement, by an investment equivalent to 1.5 times that amount. The same incentive measure would apply to Capital régional et coopératif Desjardins, subject to certain conditions.

For the purposes of application of the 60% requirement to a given fiscal year, these investments, before any 50% increase, would be allowed only up to 5% of the tax-advantaged fund's net assets at the end of the previous fiscal year.

To recognize the fact that tax-advantaged funds, while being major players in the venture-capital industry, cannot control the investment decisions of local funds, the category grouping investments in local funds will be redefined.

❑ New definition of the local fund investment category

The category of local funds eligible for the purposes of the 60% requirement applicable to tax-advantaged funds will include investments entailing no security or hypothec made by a tax-advantaged fund, during the period commencing on April 22, 2005, and ending on the day that falls five years after the day of the Budget Speech (investment period), in a local venture capital fund established and administered in Québec or a local fund recognized by the Minister of Finance, provided these investments are made with the expectation that the local fund invest at least 150% of the amounts it receives from the three tax-advantaged funds in Québec businesses whose assets are less than $100 million or whose net equity is below $50 million.

In this regard, investments agreed to by a tax-advantaged fund and for which the fund has committed amounts that are not yet disbursed at the end of a given fiscal year will be considered eligible investments. For greater clarity, these investments will not be included in the calculation of the allowable 12% limit applicable to non-disbursed investments.

However, a tax-advantaged fund will not be required to consider as an investment in the local fund category any investment otherwise eligible for the purposes of the 60% requirement.

❑ 50% increase

For tax-advantaged funds' first six fiscal years ending after the day of the Budget Speech,[98] eligible investments in this category will be increased by 50% for the purposes of the 60% requirement imposed on such funds.[99]

❑ Limit based on assets

Regarding the application of the 60% requirement to a given fiscal year of a tax-advantaged fund, investments in the local funds category, before any 50% increase if the fiscal year ended before January 1, 2012, will be allowed only up to 5% of the tax-advantaged fund's net assets at the end of the previous fiscal year.

❑ Local regional or cooperative funds

Investments made by Capital régional et coopératif Desjardins in a local fund will be deemed to have been made, for the purposes of the regional component of the 60%[100] requirement imposed on the corporation, in an entity located in a Québec resource region if, in the Minister of Finance's opinion, it is reasonable to believe that the local fund will have an impact on the economic activity of the resource regions or on the cooperative sector.

4.5 Adjustment of the public utilities tax

In general, municipalities collect a property tax on immovables located in their territory. To that end, they draw up a property assessment roll by establishing the value of these immovables and this roll is used to calculate the property tax.

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[98] Fiscal years 2005-2006 to 2010-2011 for labour funds and fiscal years 2006 to 2011 for Capital régional et coopératif Desjardins.

[99] Halfway through the investment period, the Minister of Finance will assess the advisability of extending the investment period as well as the number of fiscal years for which the 50% increase will be granted.

[100] The 60% requirement imposed on Capital régional et coopératif Desjardins provides that, during each fiscal year, the share of the investments in eligible entities entailing no security or hypothec must represent, on average, at least 60% of the corporation's average net assets for the previous year, and that a share representing at least 35% of that percentage must be invested in eligible cooperatives or in entities located in Québec's resource regions (Abitibi-Témiscamingue, Bas-Saint-Laurent, Côte-Nord, Gaspésie–Îles-de-la-Madeleine, Mauricie, Nord-du-Québec and Saguenay–Lac-Saint-Jean).

However, for reasons of practicality and fairness, immovables that are part of a telecommunications network,[101] a natural gas distribution network or an electrical power production, transmission or distribution network are excluded from the regular system and subject to an alternative system. Under this alternative system, the operator of any of these networks must pay the public utilities tax (PUT), which replaced the TGE on January 1, 2005, to Revenu Québec.[102]

The March 30, 2004 Budget Speech announced an extensive reform of the TGE tax base to bring it more in line with what would be used under the regular property tax system.

Accordingly, a person, partnership or trust that, during a calendar year, operates or operated a telecommunications network, a natural gas distribution network or an electrical power production, transmission or distribution network some of whose immovables are not carried to the property assessment roll must pay the PUT, for that calendar year, as property tax on the immovables.

Briefly, the PUT is calculated based on the net value of the assets located in Québec that are part of an operator's network, determined at the end of the operator's last fiscal year ended in the calendar year preceding the year of liability for the PUT. The net value is composed of the net value of the assets owned by the operator at that time and of the net value of the assets leased by the operator at any time in the fiscal year.

The rate of the PUT, for a calendar year, depends on the activity sector and the amount of the net value of the assets that are part of the network. More specifically, the PUT rate and the thresholds of the net value of assets on the basis of which this rate varies are given in the table below.

TABLE 1.12

PUT RATES

Activity sectors and thresholds of net value of assets

Activity sectors	Thresholds of net value of assets	
	First $750 million	Amount in excess of $750 million
Telecommunications	0.7%	10.5%
Electricity	0.2%	0.55%
Natural gas	0.75%	1.5%

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[101] For greater clarity, a telecommunications network includes a cable distribution network.

[102] Before the PUT took effect, the alternative system at the time was known as the TGE, in reference to the three sectors—telecommunications, natural gas and electricity—covered by the system.

4.5.1 Restructuring of the rate table for telecommunications networks

One of the factors prompting the overhaul of the TGE was the growing disparity between its tax base and the value of a telecommunications network. The PUT was therefore not introduced with the objective of increasing the tax burden on this sector.

However, despite the decrease, from 18% to 10.5%, in the higher rate applicable to telecommunications networks announced in the Budget Speech of April 21, 2005, the rate is still too high because it leads to an increase.

Moreover, the existence of a higher tax rate applicable to the net value, in excess of $750 million, of assets that are part of a telecommunications network causes a business to pay a higher amount of tax on its future investments compared with the tax that would be paid by a business whose total net value of assets that are part of a telecommunications network is in the first $750 million.

Consequently, the rate table applicable to this sector must be restructured.

☐ Standard rate for new assets

So that a telecommunications business whose net value of assets exceeds $750 million is not penalized when it invests in its network, a standardized rate will apply to such investments made as of the 2006 calendar year. The rate will be 0.7%, namely, the same rate currently applicable to the lower net value of assets threshold.

More specifically, the PUT rate and the thresholds of the net value of assets on the basis of which this rate will vary, as they will apply to the telecommunications sector, are given in the table below.

TABLE 1.13

PUT RATES IN THE TELECOMMUNICATIONS SECTOR
Thresholds of net value of assets

Thresholds of the net value of assets acquired or leased before January 1, 2006		**Assets acquired or leased after December 31, 2005 (eligible assets)**
First $750 million	**Amount in excess of $750 million**	
0.7%	10.5%	0.7%

❑ Eligible assets

For the purposes of the application of the new rate structure, eligible assets will be assets that are part of a telecommunications network, regarding which the PUT is otherwise payable, and that are acquired or leased after December 31, 2005 by the operator of the network.

The eligibility rules regarding property for the purposes of the capital tax credit will also apply to assets.[103] For example, the assets must be new, taking into account, however, the adjustments necessary for assets leased by the operator. More specifically, an asset will be considered not to have been used for any purpose whatsoever prior to being leased by the operator, where the operator's use of the asset was limited to leasing it.

Briefly, with regard to the depreciation of the capital cost of assets, the tax regulations provide that the assets are deemed to remain in the same prescribed class when certain reorganizations or transfers are carried out between persons not dealing at arm's length with one another.

Similar presumptions will apply respecting the eligibility of assets for the new PUT rate, regardless of whether the assets are depreciable. Thus, in the same circumstances, where an asset constitutes an eligible asset for an operator who is a seller or lessor, as applicable, it will also be considered an eligible asset for an operator who is an acquirer or lessee. Conversely, an asset that is not eligible for an operator who is a vendor or lessor will retain its nature for an operator who is an acquirer or lessee.

❑ Anti-avoidance rule

In accordance with the anti-avoidance rule currently in force for determining an operator's net value of assets for a fiscal year, an asset sold by the operator before the end of the fiscal year is deemed to have been owned by the operator at the end of the fiscal year, where the Minister of Revenue is of the opinion that the sale is part of an operation or transaction, or a series of operations or transactions, aimed in part at reducing the operator's net value of assets for that fiscal year.

However, the current purpose of the anti-avoidance rule is not sufficiently broad to cover, among other things, the case of assets classified according to whether or not they are eligible for the new PUT rate. The tax legislation will therefore be amended to extend the scope of the anti-avoidance rule to the calculation of the PUT.

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[103] The capital tax credit, announced in the Budget Speech of April 21, 2005, has the same rules governing certain property as the accelerated depreciation deduction of 100%, the supplementary deduction of 25% for depreciation and the additional deduction equal to 20% of the deduction for depreciation—tax measures that were eliminated in the June 12, 2003 Budget Speech.

More specifically, for the purpose of calculating the PUT payable by an operator for a calendar year, an asset sold by the operator before the end of the last fiscal year ended in the previous calendar year will be deemed to be an asset owned by the operator at the end of the fiscal year, where the Minister of Revenue is of the opinion that the sale is part of an operation or transaction, or a series of operations or transactions, aimed in part at reducing the PUT payable by the operator for the calendar year.

☐ Date of application

These changes will apply to assets acquired or leased after December 31, 2005. However, they will not apply to assets acquired or leased in accordance with a written obligation contracted before January 1, 2006, or to assets the construction of which by the operator, or on the operator's behalf, began before that date.

4.5.2 Clarifications concerning the sale of assets that are part of a network

Where an operator sells network assets, the current legislative structure can result, for a calendar year, in no PUT being payable regarding the assets or, conversely, in both the operator who sells the assets and the operator who acquires them having to pay the PUT in respect of the assets.[104]

Consequently, the tax legislation must be clarified to avoid both of these results.

☐ No PUT payable on the sale of network assets

In the case of an operator who sells assets to another operator that are part of the former's network, and depending on the time of the transaction, the net value of the network assets sold may not have to be taken into account in the calculation of the net value of assets (NVA) of the operator who sold them or in the calculation of the NVA of the operator who acquired them, for the purposes of the application of the PUT payable for a calendar year.

This is so when the sale is made after the end of the acquiring operator's last fiscal year ending in a calendar year, but before the end of the selling operator's last fiscal year ending in the same calendar year.[105]

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[104] Although the total net value of assets for a fiscal year also includes the net value of assets leased by an operator at any time in the fiscal year, no reference is made here to such assets, because the topic of this section—the sale of assets—concerns only assets owned by an operator.

[105] For example, this will be the result if the sale is made on May 1 of a calendar year and the end of the acquiring operator's last fiscal year for that calendar year is February 28, whereas the end of the selling operator's last fiscal year is June 30.

In this context, the net value of the network assets sold is not taken into account in the calculation of the acquiring operator's NVA for the fiscal year, because the assets have not yet been acquired by the operator, and the net value of the assets cannot be taken into account in the selling operator's NVA for the fiscal year, because the assets are no longer part of the operator's network at the end of that fiscal year.

Where, in a fiscal year, an operator sells assets to a recipient who is not an operator and the assets are part of the former's network, the net value of the network assets sold is not taken into account in the calculation of the NVA of the operator who sold the assets, with regard to the PUT payable for the calendar year following the one in which the fiscal year ended. Consequently, since the acquirer is not subject to the PUT, no PUT is payable regarding the network assets sold.

Thus, to avoid a situation in which no PUT is payable for a calendar year regarding network assets that are transferred by an operator to another operator or to an acquirer who is not an operator, a clarification will be made to the tax legislation to attribute to the selling operator the net value of the network assets sold in a fiscal year.

More specifically, the NVA used to calculate the PUT of a selling operator for a calendar year will be equal to the total of the following elements:

- where the acquirer of the network assets is an operator:
  - the net value of the network assets owned by the selling operator at the end of the last fiscal year ended in the previous calendar year;
  - the net value of the network assets sold during that last fiscal year, where the net value of the network assets sold is not to be included in the calculation of the acquiring operator's NVA for the latter's last fiscal year ended in the previous calendar year;
- where the acquirer of the network assets is not an operator:
  - the net value of the network assets owned by the selling operator at the end of the last fiscal year ended in the previous calendar year;
  - the net value of the network assets sold during that last fiscal year, calculated in proportion to the number of days in that fiscal year that precede the sale of the network assets.

For greater clarity, the net value of the network assets sold by an operator during a fiscal year will be determined on the same basis as the net value would be determined at the end of the fiscal year were the network assets not thus sold—generally, the amount by which the cost of the network assets exceeds the accumulated depreciation.

❑ PUT payable by two operators on the sale of network assets

Again in the case of an operator who sells assets to another operator that are part of the former's network, and depending on the time of the transaction, the net value of the network assets sold may have to be taken into account both in the calculation of the selling operator's NVA and in the calculation of the acquiring operator's NVA for the purposes of the application of the PUT payable for a calendar year. As a result, the tax is paid by two operators regarding the same network assets.

This is so when the sale is made before the end of the acquiring operator's last fiscal year ending in a calendar year, but after the end of the selling operator's last fiscal year ending in the same calendar year.[106]

The net value of the network assets sold is therefore taken into account in the calculation of the acquiring operator's NVA for the fiscal year, because the assets were acquired by the operator in that fiscal year, and the net value of the assets is also taken into account in the selling operator's NVA for the fiscal year, because the assets are still part of the operator's network at the end of that fiscal year.

Thus, to avoid a situation in which the PUT is payable by two operators for a calendar year regarding the same network assets because they were transferred by an operator to another operator in the previous fiscal year, a clarification will be made to the tax legislation to attribute to a single operator the net value of the network assets sold.

More specifically, as is already the case under the general rule, the NVA used to calculate a selling operator's PUT for a calendar year will be equal to the net value of the network assets owned by the operator at the end of the last fiscal year ended in the previous calendar year.

However, the NVA used to calculate the acquiring operator's PUT for the same calendar year will be equal to the net value of the network assets owned by the operator at the end of the last fiscal year ended in the previous calendar year, excepting the network assets acquired by the operator in that year and whose net value must be included in the calculation of the selling operator's NVA for the latter's last fiscal year ending in that previous fiscal year.

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[106] For example, this will be the result if the sale is made on September 1 of a calendar year and the end of the acquiring operator's last fiscal year for that calendar year is November 30, whereas the end of the selling operator's last fiscal year is June 30.

☐ Date of application

These changes will apply retroactively to the introduction of the PUT, namely, as of the 2005 calendar year.

4.6 Improvement to the refundable tax credit respecting the reporting of tips

Various measures to improve and regularize the situation regarding the reporting of tips in the restaurant and hotel sector were introduced in 1997.

In accordance with these measures, employees who receive tips in the performance of their duties must report the amount of such tips to their employer in writing. In addition, if the amount thus reported to the employer for a pay period is less than 8% of the employee's sales subject to tips for that period, an amount equal to the difference between the tips reported to the employer and the amount representing 8% of the employee's sales subject to tips is generally attributed as tips to the employee.

Employers, for their part, are required to pay various charges in regard to reported or attributed tips[107] and to take them into account for the purpose of calculating certain indemnities that they are required to pay their employees under the *Act respecting labour standards* or under collective agreements.

To compensate employers in the restaurant and hotel industry for part of the additional charges they have to bear in regard to tips reported by their employees or attributed to them, the tax system grants them a refundable tax credit.

More specifically, the refundable tax credit a taxpayer may claim for a given taxation year is equal to 75% of all his qualified expenditures for the taxation year or, if the qualified expenditures are borne by a partnership, to 75% of an amount representing the taxpayer's share of all the qualified expenditures of the partnership for its fiscal year ending in its taxation year.

Essentially, the qualified expenditures regarding an employer for a taxation year or a fiscal year, as the case may be, correspond:

— to the portion of employer contributions which is attributable to tips—i.e. contributions to the Québec Pension Plan, to the Québec parental insurance plan, to employment insurance, to the Health Services Fund, to the Commission des normes du travail and to the Commission de la santé et de la sécurité du travail—and which was paid for the calendar year ending in the taxation year or the fiscal year, as the case may be;

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[107] Namely, the contributions payable under the *Act respecting the Québec Pension Plan*, the *Act respecting parental insurance*, the *Employment Insurance Act*, the *Act respecting the Régie de l'assurance maladie du Québec*, the *Act respecting labour standards* and the *Act respecting industrial accidents and occupational diseases*.

— to the portion of the employee annual leave indemnity that is prescribed by the *Act respecting labour standards* or to the indemnity taking the place thereof provided for in an employment contract that is attributable to tips and that was received or is receivable for the taxation year or the fiscal year, as the case may be, as well as to the employer contributions payable in relation to such portion of the indemnity.

In addition, the *Act respecting labour standards* stipulates that the indemnity for general statutory holidays is calculated on the basis of an employee's wages increased by his attributed or reported tips if the employee is required to report his tips to his employer.[108] It also stipulates that tips must be taken into account in determining the indemnities an employer is required to pay when an employee may be absent from work without reduction in wages for family or parental matters.

❑ Addition of statutory general holidays and days of leave for family or parental matters

To further support the restaurant and hotel industry, the tax legislation will be amended to stipulate that expenses eligible for the tax credit will include the portion of the indemnities for statutory general holidays and for days of leave for family or parental matters that is attributable to tips and that was paid in the taxation year or the fiscal year, as the case may be.[109]

• Statutory general holidays

The expression "statutory general holidays" will include the following days:

— January 1;

— Good Friday or Easter Monday, at the option of the employer;

— the Monday preceding May 25;

— June 24, or June 25, where the 24th falls on a Sunday;

— July 1, or July 2, where the 1st falls on a Sunday;

— the first Monday in September;

— the second Monday in October;

— December 25.

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[108] The *National Holiday Act* also stipulates that the indemnity payable with regard to the National Holiday is computed on the basis of an employee's wages increased by his attributed or reported tips if the employee is required to report his tips to his employer.

[109] Employer contributions payable in respect of the portion of such indemnities that is attributable to tips constitutes a qualified expense under the current tax legislation.

- **Days of leave for family or parental matters**

Days of leave for family or parental matters correspond to days on which an employee may be absent from work without reduction in wages for family or parental matters under the *Act respecting labour standards.*[110]

The following table shows the circumstances under which an employee in the restaurant or hotel sector must be granted leave without reduction in wages.

TABLE 1.14

LEAVE FOR FAMILY OR PARENTAL MATTERS

An employee may be absent	Leave with pay
By reason of the death or funeral of his spouse, his child or the child of his spouse, or of his father, mother, brother or sister	1 day
On the day of his wedding or civil union	1 day
On the birth of his child, the adoption of a child or where there is a termination of pregnancy after the nineteenth week of pregnancy	2 days if the employee is credited with 60 days of uninterrupted service

❑ Application date

These amendments will apply to indemnities for statutory general holidays or for all absences recognized for family or parental matters paid after the day of this Budget Speech.

4.7 Measures to counter tax evasion in the restaurant sector

Although most restaurant operators fulfil their tax obligations, the restaurant business remains a sector of the Québec economy where tax evasion is widespread in regard to both income tax and sales tax. Indeed, some restaurant operators hide sales of meals to avoid paying income tax on the revenues arising from such sales and to keep the taxes collected on them.

Despite the efforts devoted to date by Revenu Québec to counter such tax evasion, the traditional methods available to auditors seem to be inadequate for allowing them to trace all of the transactions hidden through various strategems, such as using sales zappers, failing to prepare invoices or to record certain invoices and reusing invoices.

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[110] Sections 80, 81 and 81.1 of the *Act respecting labour standards.*

This situation not only leads to major tax losses for the government, but also has a negative impact on restaurant operators who fulfil their tax obligations and thus face unfair competition.

In this context, in order to encourage restaurant operators to report all their sales to the tax authorities, the legislation will be amended to increase the requirements regarding tax information that must be supplied in the restaurant sector. These amendments, which will be applied gradually, will be introduced through a bill to be tabled by the Minister of Revenue.

4.7.1 Obligation to remit invoices

Generally speaking, restaurant operators who sell meals to customers are not obliged to remit invoices or to keep a copy of such documents. This situation does not facilitate the auditing activities of Revenu Québec, which are based mainly on the registers that taxpayers and mandataries are required to keep, as well as on the supporting documents for information contained in such registers.

To remedy this situation, the tax legislation will be amended to require restaurant operators to remit to all customers to whom they supply goods and services an invoice showing the transaction.

Restaurant operators who fail to remit an invoice to a customer will incur a penalty of $100 as a result of this omission and will commit an offence for which they will be liable to a fine of no less than $300 and no more than $5 000. For a second offence committed within five years, the fine will be no less than $1 000 and no more than $10 000, and for any subsequent offence within that period, no less than $5 000 and no more than $50 000.

Restaurant operators will have to keep a copy of the invoice as a supporting document for the information contained in the registers they are required to keep under the tax legislation.

All clarifications concerning this new requirement, particularly in regard to the restaurant operators concerned, the form of the invoices they must remit to customers and the information that should appear on them, will be provided by Revenu Québec.

This measure will apply to sales of goods and services made by restaurant operators as of the effective date of any regulation adopted under the implementing bill.

4.7.2 Obligation to use cash registers equipped with a microcomputer approved by Revenu Québec

Under the current tax legislation, taxpayers and mandataries are required to fulfil a certain number of obligations in regard to the keeping of registers and of supporting documents for the information such registers contain.

Given the extent to which transactions are hidden in the restaurant sector, it is necessary to ensure that the registers and supporting documents required of restaurant operators are kept properly and contain complete and reliable information that allows the tax authorities to play their auditing role properly.

To that end, no later than January 1, 2011, all restaurant operators who are required to remit invoices to their customers will have to use a cash register equipped with a microcomputer housed in a secure casing to prepare such invoices and keep a register of their sales.

The purpose of such microcomputers, which will be approved by Revenu Québec, will be to enter and store all information pertaining to sales of goods and services made by restaurant operators to their customers, which information will be the same as that which will have to appear on the invoices to be remitted.

Restaurant operators who are registered for the Québec sales tax will also have to provide, along with the tax return that is to be filed under Québec's sales tax system for each of their reporting periods, a report on the sales recorded by the microcomputer in each of those periods.

Although all restaurant operators who have to remit invoices to their customers will be required to use a cash register equipped with a microcomputer approved by Revenu Québec as of January 1, 2011, persons who operate a new food service establishment after September 30, 2008 will have to use a cash register of this type for that establishment from the time the latter comes into operation. Clarifications as to which persons will be considered as an operator of a new establishment will be provided by Revenu Québec.

In addition, restaurant operators who contravene certain tax obligations[111] prior to October 1, 2008 will have to use a cash register equipped with a microcomputer approved by Revenu Québec as of October 1, 2008. Those who contravene certain of their tax obligations between September 30, 2008 and January 1, 2011 will also have to use such a cash register as of the date that will be determined by the Minister of Revenue after which the contravention of one of these tax obligations was noted.

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[111] For example, restaurant operators who are caught by the tax authorities while using a sales zapper to change, correct, erase, cancel or otherwise alter data without keeping the original data and the subsequent modifications, corrections, deletions, cancellations or alterations made to them.

Revenu Québec will specify all of the rules relating to the compulsory use of cash registers equipped with a microcomputer, as well as the penalties and fines entailed by contravention of the new obligations stemming from the introduction of this measure.

4.8 Adjustment to the penalty for false statements or omissions

The *Taxation Act* provides for a penalty applicable to all persons who, knowingly or under circumstances amounting to gross negligence, make or participate or acquiesce in the making of a false statement or omission.

In short, the penalty is equal to the greater of $100 or 50% of the amount of income tax avoided as a result of the false statement or omission, the amount of a deduction overpayment obtained as a result of the false statement or omission, and the amount of a refundable tax credit overpayment obtained as a result of the false statement or omission.

In calculating the penalty for false statements or omissions in respect of unreported income, the amount of a deduction granted in the calculation of income is taken into account if the deduction is fully applicable to the amount that was not indicated in the return but that should have been included in the computation of the income. Accordingly, for the purpose of calculating the penalty, the unreported income can be reduced only by the amount of an undeducted expense that was incurred in full to earn such unreported income.

However, depending on whether it was all or only a portion of the income from a given source that was not reported, a deduction may or may not be qualified as fully applicable to such income. For example, if the unreported income is rental income and no income from that source was reported by the taxpayer, the penalty for false statements or omissions would be calculated on the basis of the amount of income not reported, after taking into account an amount for a capital cost allowance deduction, since this deduction is fully applicable to the income omitted.

However, if the taxpayer omitted to declare only a portion of the rental income, the penalty would be determined without taking an additional deduction for capital cost allowance into account since such a deduction is not fully applicable to the unreported income, as it applies to both the reported income and the unreported income.

Therefore, a taxpayer who omits to declare all income from a given source may be penalized to a lesser extent than a taxpayer who omits to declare only a portion of such income. This result runs counter to the objective of the penalty for false statements or omissions.

In this context, the tax legislation will be amended to stipulate that, in the calculation of the penalty for false statements or omissions, an amount deducted to amortize the capital cost of a property or an amount deducted in regard to the eligible portion of intangible assets will not be taken into account.

This amendment will apply to a false statement or omission in a return prepared or filed after the day of this Budget Speech.

4.9 Measures relating to Aboriginal taxation

Representatives of the Québec government and the Assembly of First Nations of Québec and Labrador have met on several occasions in recent years to discuss the application of the tax Québec system.

During these meetings, the representatives of both parties raised a certain number of problems. In general, these problems stem from a lack of harmonization between the Québec and federal systems.

Various amendments will therefore be made to Québec's legislation and regulations to better harmonize the Québec system with the federal system.

In addition, the government will introduce the legislative framework needed to allow band councils to impose, within the limits of their reserves, Aboriginal taxes that are harmonized with Québec consumption taxes.

4.9.1 Participation of Indians exempt from income tax in the Québec Pension Plan

The Québec Pension Plan (QPP) and the Canada Pension Plan (CPP) are public plans designed to partially replace the income of workers in the event of retirement, disability or death. These plans, which are very similar in terms of benefits, contributions and eligibility requirements, are both compulsory plans that cover almost all workers, be they employees or self-employed workers.

Even though the QPP and the CPP have generally evolved in a similar fashion, they have differed for several years now with respect to the participation of workers who are Indians whose income is situated on a reserve or recognized Indian land. In general, this difference stems from the fact that such workers cannot contribute to the QPP in respect of their income situated on a reserve or recognized Indian land, while they have the option of contributing to the CPP.

According to the Assembly of First Nations of Québec and Labrador, Indians whose income is situated on a reserve or recognized Indian land should be able to participate in the QPP on an optional basis as is the case under the CPP.

To grant such workers the possibility of participating in the QPP and to better standardize the rules for this plan with those of the CPP, a regulation effective as of January 1, 2006 will be adopted.

This regulation, whose application will be entrusted to the Minister of Revenue, will establish all of the rules aimed at allowing Indians whose income is situated on a reserve or recognized Indian land to participate in the QPP, be they employees or self-employed workers.

❑ Optional participation of Indians who are employees

Generally speaking, an employee who performs pensionable employment with an employer must pay a contribution to the QPP through source deductions on the wages paid to him by that employer.[112] As for the employer, he must pay a contribution to the QPP equal to that which each of his employees is required to pay through source deductions.

To give rise to the payment of such contributions, the employment performed by an employee must be pensionable employment for the purposes of the QPP, that is, employment in Québec that is not excepted employment.

However, even if an employee performs excepted employment, he has, in some cases, the option of participating in the QPP in respect of such employment, by paying a contribution established on the basis of the rate applicable to pensionable earnings from self-employment.[113]

Currently, employment performed by an Indian, within the meaning of the *Indian Act*, is employment excepted from the application of the QPP, where an amount in respect of the remuneration paid for such employment, because it constitutes income situated on a reserve,[114] may be deducted in computing taxable income determined under the *Taxation Act*. Hereunder, such employment is referred to as "employment excepted because of a tax exemption."

Therefore, no QPP contributions are payable in respect of such employment by either the Indian who is an employee through source deductions or by his employer.

In addition, the existing rules do not grant Indians the possibility of participating in the QPP in respect of such employment by paying a contribution established on the basis of the rate applicable to pensionable earnings from self-employment.

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[112] The applicable contribution rate is 4.95%, or half the general contribution rate.

[113] Namely, the general contribution rate of 9.9%.

[114] Within the meaning given to this expression in the *Taxation Act*, generally a reserve within the meaning of the *Indian Act*, Category IA or IA-N within the meaning of the *Cree-Naskapi (of Quebec) Act* and certain Indian settlements.

Therefore, measures will be introduced to allow employment excepted because of a tax exemption performed by an Indian to give rise to the QPP.

More specifically, it will be provided that employment performed in Québec by an Indian, within the meaning of the *Indian Act*, that is employment excepted because of a tax exemption will be pensionable employment for the purposes of the QPP when the following conditions are met:

- the Indian resides in Canada;
- the employer of the Indian, using the form provided for this purpose by the Minister or Revenue and filed with him:
  - has made an irrevocable choice that the employment of each Indian, within the meaning of the *Indian Act*, employed by him that is employment excepted because of a tax exemption be pensionable employment as of the date indicated on that form, which date may not be prior to July 1, 2006 or the date on which the form was filed with the Minister of Revenue, whichever is later;
  - has made a commitment to comply with the requirements of the *Act respecting the Québec Pension Plan* and the regulations made under this Act, particularly those pertaining to remittances of employee and employer contributions in respect of employment subject to the choice, as well as to the filing of an annual return.

Furthermore, Indians whose employer does not make the above-mentioned choice will, under certain conditions, have the option of participating in the QPP by paying a contribution established on the basis of the rate applicable to pensionable earnings from self-employment.

Accordingly, when an Indian, within the meaning of the *Indian Act*, performs in Québec, during a given year, employment excepted because of a tax exemption with an employer who has not made the above-mentioned choice and, during such year, is resident in Québec in accordance with section 8 of the *Act respecting the Québec Pension Plan* or is be deemed to have been employed in Québec in accordance with the *Taxation Act*, he will be able to add a determined amount to his pensionable salary and wages that are taken into account for the purposes of calculating the optional contribution payable by an employee under section 55 of the *Act respecting the Québec Pension Plan*.

This amount will be equal to the amount that, under the *Act respecting the Québec Pension Plan*, would have corresponded to the Indian's pensionable salary and wages for the given year if the employment excepted because of a tax exemption that he performed during the year was pensionable employment and if no other pensionable employment was performed by the Indian during such year.

❑ Optional participation of Indians who are self-employed workers

Generally speaking, a self-employed worker who is resident in Québec on the last day of the year must pay a contribution to the QPP calculated on the basis of his self-employed earnings for the year.

In short, self-employed earnings are determined by taking into account the income and losses from businesses that a worker carries on directly or as an active member of a partnership. However, some incomes are excluded in calculating self-employed earnings, while others are included.

In accordance with the current practice, income from a business that an Indian, within the meaning of the *Indian Act*, carries on alone or as an active member of a partnership and which constitutes income situated on a reserve[115] is not included in the calculation of his self-employed earnings, even though under the terms of the *Act respecting the Québec Pension Plan* such income could be taken into account.

Since such income has never given rise to the payment of contributions to the QPP and in order to do away with any ambiguity in this regard, the *Act respecting the Québec Pension Plan* will be amended so that it conforms to the current practice.

However, rules will be introduced to grant Indians the possibility of paying a contribution to the QPP in respect of such income.

More specifically, an Indian, within the meaning of the *Indian Act*, will have the option, for the purpose of calculating his self-employed earnings for a given year, of including an amount corresponding to his total income for the year, calculated according to the *Taxation Act*, which comes from a business he carries on directly or as an active member of a partnership and which, for such year, gives entitlement to a deduction in the calculation of his taxable income under the *Taxation Act* because such income constitutes income situated on a reserve.[116]

This choice will have to be made for a given year no later than the fifteenth day of the month of June of the second year following the given year.

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[115] Idem.

[116] Idem.

4.9.2 Measures relating to municipal or public bodies that perform a function of government

On July 18, 2005, the federal Minister of Finance announced in a news release[117] revised legislative proposals to amend the *Income Tax Act*.[118]

In addition to several technical amendments, these legislative proposals include measures to grant a tax exemption to corporations, commissions and associations of which not less than 90% of the capital is owned by a municipal or public body performing a function of government in Canada.

As well, these legislative proposals include measures that authorize municipal or public bodies that perform a function of government in Canada to issue tax receipts for charitable donations and gifts of ecologically sensitive property they receive from individuals or corporations.

For the purposes of these measures, a municipal or public body performing a function of government in Canada can include, among others, an Indian band that, like a municipality, supervises the delivery of essential services and programs offered to all residents of a territory.

☐ Tax exemption

Québec's tax legislation will be amended to incorporate, with adaptations based on its general principles, the federal measures granting a tax exemption to entities of which not less than 90% of the capital is owned by a municipal or public body performing a function of government in Canada.

However, these measures will be adopted only after the approval of any federal law giving effect to them, taking into account technical amendments that might be made prior to the approval of the law. They will be effective on the same dates as for federal income tax purposes.

☐ Gifts of ecologically sensitive property and charitable donations

The measures authorizing a municipal or public body performing a function of government in Canada to issue tax receipts for gifts of ecologically sensitive property will be incorporated into Québec's tax legislation, with adaptations based on its general principles, subject to the following clarifications:

— when the gift concerns land located in Québec or a servitude encumbering such land, these measures will apply only to municipal or public bodies performing a function of government in Québec;

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[117] News release 2005-049 of the Department of Finance Canada.

[118] Decisions to harmonize or not harmonize Québec's tax legislation and regulations with these proposals are described in detail in subsection 5.1.

— when the gift concerns land located in a region bordering Québec or a servitude encumbering such land, they will apply to all municipal or public bodies performing a function of government.

Québec's tax legislation will also be amended to incorporate the measures authorizing a municipal or public body performing a function of government in Canada to issue tax receipts for charitable donations.

However, these measures will be adopted only after the approval of any federal law giving effect to them, taking into account technical amendments that might be made prior to the approval of the law.

The measures will be effective on the same dates as for federal income tax purposes, except if the gifts concern land located in a region bordering Québec or a servitude encumbering such land, in which case they will apply to gifts made after July 5, 2001.

☐ Kativik Regional Government

Since July 3, 1997, the Kativik Regional Government (KRG) has been recognized as a municipality for the purposes of the *Taxation Act*.[119] Because of this recognition, a corporation, a commission or an association of which not less than 90% of the capital is owned by the KRG may benefit from the tax exemption measures, and the KRG itself may issue tax receipts for charitable donations and gifts of ecologically sensitive property made to it.

Owing to the amendments that will be made to Québec's tax legislation regarding municipal or public bodies performing a function of government in Canada, this recognition is no longer needed, as the KRG constitutes such a body. Québec's tax legislation will thus be amended accordingly.

This amendment will be effective on the same dates as the amendments from which it stems.

4.9.3 Refund of the fuel tax to tribal councils and band-empowered entities

Because of the harmonization of the Québec sales tax (QST) and the goods and services tax (GST) systems, tribal councils are equated with Indian bands and may thus claim the tax exemption provided in the legislation concerning Indians in regard to such bands. Under certain circumstances, band-empowered entities may also claim the same tax exemption as the bands from which they have received a mandate. Among other things, such councils and entities do not have to pay QST on the fuel purchases they make on a reserve.

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[119] Information Bulletin 97-4.

However, under the current terms of Québec's fuel tax system, tribal councils and band-empowered entities must pay this tax on products they purchase on a reserve, without being able to obtain a refund for the tax, as may the Indian bands with which they are equated or from which they have received a mandate, as the case may be.

Therefore, to standardize the rules that apply to the QST and the fuel tax in regard to tribal councils and band-empowered entities, changes will be made to the fuel tax system so that such councils and entities may claim a refund of this tax paid on the fuel purchases they make on a reserve, under the same circumstances as where they are entitled to a QST exemption in respect of such purchases.

These changes will apply to fuel purchases made after the day of this Budget Speech.

4.9.4 Introduction of a legislative framework for imposing Aboriginal consumption taxes

Following a request by the Québec government, the federal government announced in its 2004 Budget Plan that it intended to authorize and facilitate the conclusion of taxation arrangements between the Québec government and the bands contemplated by the *Indian Act*. To that end, the *First Nations Goods and Services Tax Act* was amended.

The purpose of these amendments is to allow band councils to conclude agreements with the Québec government to implement Aboriginal taxes that are harmonized with Québec consumption taxes within the limits of their reserves. However, such Aboriginal taxes may be applied only if the Québec government and the band councils pass a law to that effect.

In this context, the Québec government will introduce the legislative framework needed for band councils who so desire to impose consumption taxes that are harmonized with the following Québec taxes:

— the QST;

— the QST applicable only to alcoholic beverages and fuel;

— the fuel tax;

— the tobacco tax;

— the tax on alcoholic beverages;

— the tax on insurance premiums.

4.9.5 Persons of Indian ancestry

Under the *Indian Act* and the *Cree-Naskapi (of Quebec) Act* passed by the federal government, the personal property of Indians that is situated on a reserve or Indian land, as the case may be, is exempt from taxation. The federal government also grants this exemption, through certain decrees made for the purpose of applying the *Financial Administration Act*, to the personal property of Indians situated in an Indian settlement.

The Québec tax system fully applies the tax exemption principles from which Indians benefit. In some respects, the Québec government has even extended the application of these principles to persons of Indian ancestry who do not have Indian status within the meaning of the *Indian Act*, i.e. essentially people who reside in a recognized territory or hold an office or a job there and whose mother or father is an Indian.

The concept of person of Indian ancestry first appeared in the Québec tax system in the early 1980s in order to support the claims of Indian women who, because of certain discriminatory provisions in the *Indian Act*, lost their Indian status after marrying a non-Indian. Thanks to this concept, such women have been able to continue benefiting from the tax exemption principles reserved for Indians in the same way they would have had they retained their status.

The discriminatory provisions of the *Indian Act* were removed several years ago, and women who had been struck from the Indian Register were thus able to regain their Indian status. Over time, the application of the concept of person of Indian ancestry changed somewhat, being extended to people for whom it was not originally intended. As a result, the legitimate link between this concept and the tax exemption principle from which Indians benefit has become increasingly tenuous over the years, creating a certain unfairness in regard to the tax treatment of non-Indians.

Therefore, to improve the fairness of the Québec tax system and better harmonize it with the federal tax system, Québec's tax legislation and regulations will be amended to restrict the application of the tax exemption principles solely to individuals who are Indians, within the meaning of the *Indian Act*.

Given the impact the introduction of this restriction may have on certain rules of the tax system that stem from these principles, the necessary changes will be made to these rules.[120]

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[120] For example, changes will be made to the deduction for workers and the refundable tax credit attributing a work premium so as to make them fully accessible to persons of Indian ancestry.

In regard to income tax, these changes will be effective as of the 2007 taxation year. For the purposes of the QST and fuel tax systems, they will apply respectively to supplies and purchases made after the day of this Budget Speech.

For greater clarity, the rule provided for in the *Act respecting the Québec Pension Plan* and that is based on the principles of exempting Indians from tax in order to consider the employment they perform in Québec as employment excepted from the application of the Québec Pension Plan will no longer apply, as of 2007, to work performed by a person of Indian ancestry. In addition, the current practice which leads to the exclusion, in the calculation of self-employed earnings, of income from a business situated on a reserve[121] that a person of Indian ancestry carries on alone or as an active member of a partnership, will cease to apply as of 2007.

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[121] *Supra*, Note 114.

5. FEDERAL LEGISLATION AND REGULATIONS

5.1 News release 2005-049 of July 18, 2005

On July 18, 2005, the federal Minister of Finance made public revised legislative proposals to amend the *Income Tax Act*.

These proposals concern the taxation of income of non-resident trusts and foreign investment entities, amendments related to bijuralism and a number of technical amendments, most of which were announced on December 20, 2002[122] and presented again on February 27, 2004.[123]

The measures regarding the taxation of income of non-resident trusts and foreign investment entities were first announced in the federal budget of February 16, 1999.[124]

The ministère des Finances has already announced that, generally speaking, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the legislative amendments regarding the taxation of income of non-resident trusts and foreign investment entities .[125]

As well, the ministère des Finances has already indicated that any amendments to federal tax legislation and regulations arising from the revision process relating to bijuralism will be incorporated into Québec's tax legislation and regulations, provided they concern a provision with which Québec's tax system is harmonized and these amendments are appropriate in the circumstances.[126]

Lastly, the ministère des Finances also specified that, generally speaking, Québec's tax legislation and regulations will be amended to incorporate, with adaptations based on their general principles, the various legislative amendments announced on December 20, 2002.[127] This will also be the case of the above-mentioned legislative proposals announced on July 18, 2005. However, these measures will be adopted only after the approval of any federal law or the adoption of any federal regulation arising from it, taking into account amendments that might be made prior to the approval of the law or the adoption of the regulation, and will generally apply on the same dates as for federal income tax purposes.

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[122] News release 2002-107 of the Department of Finance Canada.

[123] News release 2004-014 of the Department of Finance Canada.

[124] Budget Resolution 8 of the Notice of Ways and Means Motion to Amend the Income Tax Act.

[125] 1999-2000 Budget Speech, Additional Information, Information Bulletin 2002-13 of December 19, 2002 and Information Bulletin 2003-7 of December 12, 2003.

[126] Information Bulletin 2002-8 of July 11, 2002.

[127] 2003-2004 Budget Speech, Additional Information on the Fiscal Measures.

❑ Measures not retained

Certain measures will not be retained because they do not correspond to the features of Québec's tax system or because Québec's tax system does not contain corresponding provisions or is satisfactory in this regard. The federal measures not retained relate to:

— elements that are deductible for the purposes of calculating income or loss from a particular source or from a source in a particular place (47)[128];

— corrections made to the French version of the provisions defining what constitutes a forgiven amount for the purposes of taxable benefits deriving from the forgiveness of a debt (48(2) and 54(1));

— the technical corrections made to certain provisions relating to recaptured depreciation and terminal loss (52(1) and 57(3));

— a terminological amendment made to a provision concerning shareholder benefits (54(2));

— the addition of the concept of "fault" to the English version of the provisions concerning limited partners (60(3) and 90(2));

— the terminological amendment concerning "covenants" and the clarification concerning "real servitudes" under the *Civil Code of Québec* (61, 101(6) in part, 101(10) and 106(1) in part);

— the amendment made to the English version of the exception to principal residence rules (67);

— the correction of certain references and grammatical errors made in the provisions relating to exploration and development expenses (74(2) to (5));

— the correction of an editorial error in the English version of subparagraph 69(1)b)(iii) of the *Income Tax Act* (77(1));

— the correction of a reference to paragraph 73(2) of the *Income Tax Act* (80(1));

— the amendment made to the English version of paragraph 73(3)d.1) of the *Income Tax Act* (80(3));

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[128] The references in parentheses correspond to the clause numbers of the legislative proposals made public on July 18, 2005.

— specific provisions applicable to a corporation formed on an amalgamation, due to the presence of a generic clause in the *Taxation Act* (87(1) to (4));

— the terminological amendment made to certain provisions concerning the distribution of property of a trust (95(9), 102(1), 168 and 170);

— the terminological amendment made to the definition of "pre-1986 capital loss balance" (103(2));

— the amendment made to the English version concerning the spouse or common-law partner tax credit (105(1));

— the terminological amendment made to the definition of "eligible medical expenses" (107(5));

— the amendment of the French version of the tax credit for a dependant having a severe and prolonged mental or physical impairment to include a phrase that was inadvertently deleted (108);

— the amendments concerning the education tax credit (110);

— the amendments concerning the unused tuition and education tax credits (111);

— the clarification concerning a notional amount of interest calculated on the averaging of a retroactive lump-sum payment (113);

— the amendment of the English version of the definition of "split income" for the purposes of calculating tax on split income (114);

— the amendments made to the provisions relating to the small business deduction (116);

— the amendments made to the provisions relating to the manufacturing and processing profits deduction (117);

— the amendment made to the definition of "taxable resource income" (118);

— the amendments made to the provisions relating to the Canadian film or video production tax credit (119);

— the repealing of the UI premium tax credit (121) and the consequential amendments (87(5), 149, 159(2) and (3));

- the terminological amendments concerning the logging tax deduction (122(1) to (4));
- the amendment concerning the distribution, among the members of a partnership, of political contributions (122(6));
- the amendments concerning the recapture of the investment tax credit (122(7) and (8));
- the amendment made to the definition of "approved share" for the purposes of the labour-sponsored funds tax credit (123);
- the amendments made to the calculation of the refundable dividend tax on hand (127);
- a technical amendment made to the French version of paragraph 132.11(1)c) of the *Income Tax Act* (129(2));
- the amendments relating to the reduction in corporate tax rates (132(1) and 133(2));
- an amendment made for the purposes of Part XIII tax (137);
- the amendment concerning the tax payable on income earned by a trust governed by a registered retirement savings plan from non-qualified investments (140(7));
- the correction of an error in the English version of the definition of "annuitant" and "amount included in income" for the purposes of the rules relating to registered retirement income funds (143(1) and (4));
- the clarification concerning capital gains and losses for the purposes of calculating the tax payable on income earned by a trust governed by a registered retirement income fund from non-qualified investments (143(6));
- the reformulation of the French version of the definition of "relevant contribution" (146(1));
- the correction of a reference in the English version of the definition of "enduring property" in paragraph 149.1(1)d) of the *Income Tax Act* (148(6));
- the amendment concerning the communication of information in respect of registered Canadian amateur athletic associations (148(11));
- the inclusion of an additional reference for the purposes of reducing instalments (150);

— the calculation of interest on assessments in respect of personal and joint and several liability (151, 152, 154(1), (2) and (4), 155 and 156);

— the calculation of interest on an assessment in respect of an excess refund (153);

— the terminological amendment made to the French version of paragraph 162(6) of the *Income Tax* Act (157);

— the amendment concerning the penalty for false statements or omissions to reflect the new quarterly calculation of the goods and services tax credit (158);

— the amendments made in respect of the taxation of large corporations (161 and 162);

— the special tax payable by registered charities (164);

— the amendment made in respect of the financial institutions capital tax (165);

— the amendments made to Part VI.1 of the *Income Tax Act* (166 and 167);

— the registration conditions of labour-sponsored venture capital corporations (169);

— Part XI tax relating to certain property acquired by a trust governed by, among other things, a registered retirement savings plan (171);

— the amendments made to Part XII.2 of the *Income Tax Act* (173 and 174);

— the amendment made to Part XII.4 of the *Income Tax Act* (175);

— the recovery of the labour-sponsored funds tax credit (176);

— Part XIII tax relating to the income earned in Canada by non-residents (177 to 179);

— the amendment made to a provision relating to the keeping of books and records (181);

— the amendment relating to the provision of documents and information (182);

— the amendments made to provisions concerning the provision of information (184);

- a terminological amendment made to the definition of "scientific research and experimental development" (185(9));
- the addition of the definition "listed international agreement" (185(12));
- the amendment made in regard to the repayment of an input tax refund (185(20));
- the replacement of a reference to Part XII.2 tax in the definition of individuals who are party to a void or voidable marriage (188);
- a terminological correction made to the French version of subparagraph 256(6)b)(ii) of the *Income Tax Act* (190(1));
- certain amendments to securities lending arrangements (192(8));
- the amendments concerning the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act* (196);
- the amendment made to the *Federal-Provincial Fiscal Arrangements Act* (197).

❑ Clarifications in respect of some of the measures retained

Some of the technical amendments that will be incorporated into Québec's tax legislation will undergo specific changes, whereas others will entail consequential amendments to various Québec tax measures. These amendments will apply as of the same dates as will the federal amendments from which they arise.

Thus, the amendment allowing an employee to deduct certain amounts paid on his behalf which, had he received them, would have been required to be included in computing his income (50(2)) will be adapted so as to make it applicable to the tax credit respecting dues to a professional association or a union.

The amendment relating to the tax credit for tuition fees (109) will also be adapted to make it applicable to tuition fees paid to an educational institution in the United States or to a university outside Canada.

The addition of municipal or public bodies performing a function of government in Canada to the list of donees recognized for the purposes of the deduction for gifts (101(2)) will also be applied to the list of donees recognized for the purposes of the disbursement quota for recognized arts organizations.

As for the amendments to the overseas employment tax credit (115), they will be applied to the deduction for workers employed abroad and adapted to the specific features of this deduction.

The amendments concerning the definition of "disbursement quota" (148(4) and (5)), the reasons for revoking the registration of an entity (148(7) to (9)) and the accumulation of property of a registered charity (148(10)) will be extended to recognized arts or political education organizations.

Moreover, the amendment introducing new rules in matters of gifts and contributions (185(23)) will be adapted as concerns the concept of "eligible amount of a gift" to ensure that the eligible amount of a gift of the bare property of cultural property or a work of art is equal to the amount by which the fair market value of the property that is the subject of the gift, as determined by the rules established in this respect, exceeds the amount of the advantage in respect of that gift, other than a usufruct or a right of use.

Similarly, changes will be made to certain rules specific to Québec which apply to the deduction and the tax credit for gifts.

Thus, the rule aimed at increasing by 25% the fair market value of the gift of a work of art to a Québec museum-related institution will be amended to make this increase applicable in respect of the eligible amount of such a gift.

Moreover, the presumption applicable when a donee alienates a previously gifted work of art within the stipulated period will be amended to ensure that the amount of the consideration received by virtue of this alienation or the fair market value of the work, whichever is lower, is deemed to be, for the purposes of the deduction for gifts or of the definition of "total charitable gifts", as the case may be, the fair market value of the work for the purposes of calculating the eligible amount of the gift.

Moreover, although they do not require any legislative or regulatory amendment, the measures relating to tax assistance for retirement savings (71(2), 140(1) to (5), 143(2) and (3), 144(1) and (2)) will also be retained for the purposes of the Québec tax system.[129]

Lastly, the amendments relating to the reimbursement of royalties (82) will be retained for the purposes of the Québec tax system, with the necessary adaptations, given that Québec's legislation concerning the replacement of the 25% lump sum allowance with a deduction for mining royalties and taxes actually paid will be harmonized with the federal legislation, but only as of 2007.

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[129] As part of the Budget Speech of April 26, 1990, it was announced that Québec's tax legislation and regulations would be amended so that the rules introduced in the reform of tax assistance for retirement savings would be the same as those applicable for federal income tax purposes. Given the level of complexity of the provisions relating to the reform, for individuals, employers and tax administration, it was specified that the federal rules would not be incorporated into Québec's tax legislation and regulations and that the legislative process to be used would refer to them.

5.2 News release 2005-080 of November 17, 2005

On November 17, 2005, the federal Minister of Finance tabled, in the House of Commons, a Notice of Ways and Means Motion to Amend the *Income Tax Act* in regard to the tax treatment of certain expenditures.

More specifically, these amendments concern the rules for recognizing expenditures when a taxpayer does not provide any consideration in the form of money or money's worth, as well as the rules relating to late claims for tax incentives.

☐ The amount of an expenditure – Disbursement of money or money's worth

The amendments proposed by the federal government provide that the amount of an expenditure allowable to a taxpayer, and upon which a tax credit or deduction may be claimed, is limited to the amount actually disbursed by the taxpayer.

These amendments respond to a Tax Court of Canada decision, according to which a taxpayer may include, as an expenditure eligible for the tax credit for scientific research and experimental development (R&D), the taxable benefit deriving from a stock option granted to employees who participate directly in R&D activities.

Although it is not very likely that a similar decision will be handed down for the purposes of the Québec tax system, given the clear position with the opposite effect applied by Revenu Québec, Québec's tax legislation will nonetheless be amended to incorporate, with adaptations based on its general principles, the federal measures concerning the recognition of expenditures upon which a taxpayer may claim a tax credit or deduction.

These amendments will apply by declaration. However, they will not apply to cases pending before the courts on the day of this Budget Speech or to notices of objection served on the Minister of Revenue no later than that day, when the treatment of the taxable benefit deriving from a stock option granted to employees has been contested no later than that day in such cases or notices and the reasons for the contestation are elements concerned by these amendments.

☐ Late claims for tax incentives

The amendments proposed by the federal government provide that a taxpayer may not deduct R&D expenditures and is not entitled to investment tax credits if he files his claim after the end of the additional 12-month period provided for under the *Income Tax Act* (12-month filing deadline). Therefore, the Minister of National Revenue will no longer be able to exercise the discretion he currently has to waive this deadline for filing such claims.

Québec's tax legislation is harmonized with the federal legislation in regard to the requirement that taxpayers report, by the 12-month filing deadline, R&D expenditures giving entitlement to a deduction. Québec's tax legislation is also harmonized with the federal legislation in regard to the requirement that taxpayers claim, by the 12-month filing deadline, a tax credit for expenditures incurred in a taxation year and giving rise to such a tax credit, for all refundable tax credits for businesses.

In addition, under Québec legislation, the Minister of Revenue has the right to extend the deadline set by a tax law for filing a return or a report or for providing information. For example, such an extension may be justified when a taxpayer can prove that he is late in filing a claim because of a delay in the delivery of an attestation by the organization responsible for issuing it.

Québec's tax legislation will therefore be amended to incorporate, with adaptations based on its general principles, the amendment announced by the federal government with regard to the late filing of claims by taxpayers for a deduction for R&D expenditures or a refundable tax credit for businesses.[130]

Accordingly, failure to report, by the 12-month filing deadline, R&D expenditures incurred in a taxation year will entail the loss of entitlement to a deduction in respect of these expenditures.

In addition, failure to claim, by the 12-month filing deadline, a refundable tax credit for businesses in respect of expenditures incurred in a taxation year and giving rise to such a tax credit, will entail the loss of entitlement to such a tax credit in respect of these expenditures.

However, the Minister of Revenue will retain the right to extend the period for filing claims for a tax credit when obtaining the tax credit depends on the delivery of a certificate or an attestation by a sectoral organization that partly administers this tax measure.

Therefore, the Minister of Revenue will automatically extend the current 12-month filing deadline if a claim is late because the taxpayer obtained an annual certificate or an annual attestation after the expiry of the deadline and provided the taxpayer filed his application with the sectoral organization before the end of the ninth month following the deadline for filing his income tax return. However, an application will not be deemed to have been filed with the sectoral organization unless it is supported by all the documentation needed to issue the certificate or attestation.

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[130] For greater clarity, this amendment will also apply to the tax credit for the hiring of employees specializing in financial derivatives. In this regard, see subsection 2.10.

In addition, the Minister of Revenue may in exceptional cases continue to extend the current 12-month filing deadline, even though the taxpayer has filed his application with the sectoral organization after the end of the ninth month following the deadline for filing his income tax return but before the end of the twelfth month following that deadline. In such cases, the Minister of Revenue may agree to examine the application for extending the deadline according to the currently prescribed administrative criteria.

Lastly, no applications for extending the deadline will be considered when the taxpayer files his application for an annual certificate or an annual attestation with the organization responsible for issuing it after the expiry of the 12-month period following the deadline for filing his income tax return.

This change will apply to applications for extending the deadline filed with the Minister of Revenue after the day of the Budget Speech. However, when obtaining the tax credit depends on the delivery of a certificate or an attestation by a sectoral organization, the change relating to the late filing of a claim for tax credits will apply to a taxation year for which the current 12-month filing deadline expires after June 30, 2006.

APPENDIX[131]

North American Industry Classification (NAICS) 2002 Classification

3211 Sawmills and Wood Preservation

This industry group comprises establishments primarily engaged in manufacturing boards, dimension lumber, timber, poles and ties from logs and bolts. These establishments produce lumber that may be rough, or dressed by a planing machine to achieve smoothness and uniformity of size, but is generally not further worked or shaped. Establishments that preserve wood are also included.

32111 Sawmills and Wood Preservation

This industry comprises establishments primarily engaged in manufacturing boards, dimension lumber, timber, poles and ties from logs and bolts. These establishments produce lumber that may be rough, or dressed by a planing machine to achieve smoothness and uniformity of size, but is generally not further worked or shaped. Establishments that preserve wood are also included.

Exclusion(s): Establishments primarily engaged in:

— chipping logs in the field (11331, Logging);

— peeling or slicing logs to make veneer (32121, Veneer, Plywood and Engineered Wood Product Manufacturing);

— manufacturing glued-laminated timber, nailed-laminated lumber beams, parallel strand lumber, laminated veneer lumber, fingerjoined lumber, and similar products (32121, Veneer, Plywood and Engineered Wood Product Manufacturing);

— planing purchased lumber or working lumber further than dressed (32191, Millwork).

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[131] The NAICS codes reproduced in this appendix constitute an excerpt from the Statistics Canada Website: http://stds.statcan.ca.

321111 Sawmills (except Shingle and Shake Mills)

This Canadian industry comprises establishments primarily engaged in manufacturing boards, dimension lumber, timber, poles and ties, and siding, from logs and bolts. These establishments produce lumber that may be rough, or dressed by a planing machine to achieve smoothness and uniformity of size, but (except in the case of siding) is generally not further worked or shaped.

321112 Shingle and Shake Mills

This Canadian industry comprises establishments primarily engaged in sawing blocks of wood to produce shingles or splitting blocks of wood to produce shakes.

321114 Wood Preservation

This Canadian industry comprises establishments primarily engaged in treating lumber, plywood, poles and similar wood products, produced in other establishments, with preservatives to prevent decay and to protect against fire and insects. Establishments primarily engaged in cutting to size and treating poles, pilings, posts and similar roundwood products are included. Pressure treating is the most common method used. Some common preservatives are water-borne inorganic compounds, such as chromated copper arsenate and creosote.

3212 Veneer, Plywood and Engineered Wood Product Manufacturing

This industry group comprises establishments primarily engaged in manufacturing softwood and hardwood veneer and plywood; structural wood members, except lumber; and reconstituted wood panel products. Veneer is produced as a thin sheet of wood of uniform thickness by peeling or slicing logs. Plywood is produced by gluing and compressing together, three or more sheets of veneer, with the grain of alternate sheets usually laid crosswise. Structural wood members are made by laminating, joining and assembling wood components according to specified engineering design criteria. Reconstituted wood panel products are produced by processes involving pressure, adhesives and binders. The laminated products produced in this industry may have layers of materials other than wood.

32121 Veneer, Plywood and Engineered Wood Product Manufacturing

This industry comprises establishments primarily engaged in manufacturing softwood and hardwood veneer and plywood; structural wood members, except lumber; and reconstituted wood panel products. Veneer is produced as a thin sheet of wood of uniform thickness by peeling or slicing logs. Plywood is produced by gluing and compressing together, three or more sheets of veneer, with the grain of alternate sheets usually laid crosswise. Structural wood members are made by laminating, joining and assembling wood components according to specified engineering design criteria. Reconstituted wood panel products are produced by processes involving pressure, adhesives and binders. The laminated products produced in this industry may have layers of materials other than wood.

Exclusion(s): Establishments primarily engaged in:

— manufacturing solid wood structural members, such as dimension lumber and timber; and preserving purchased plywood (32111, Sawmills and Wood Preservation);

— manufacturing containers, such as fruit baskets and boxes, from veneer made in the same establishment (32192, Wood Container and Pallet Manufacturing);

— manufacturing gypsum board (32742, Gypsum Product Manufacturing).

321211 Hardwood Veneer and Plywood Mills

This Canadian industry comprises establishments primarily engaged in manufacturing hardwood veneer and plywood.

Exclusion(s): Establishments primarily engaged in:

— preserving purchased plywood (321114, Wood Preservation).

321212 Softwood Veneer and Plywood Mills

This Canadian industry comprises establishments primarily engaged in manufacturing softwood veneer and plywood.

Exclusion(s): Establishments primarily engaged in:

— preserving purchased plywood (321114, Wood Preservation).

321215 Structural Wood Product Manufacturing

This Canadian industry comprises establishments primarily engaged in manufacturing structural wood members, other than solid dimension lumber and timber.

Exclusion(s): Establishments primarily engaged in:

- fabricating structural wood members at construction sites (23, Construction);
- manufacturing solid wood structural members, such as dimension lumber and timber (321111, Sawmills (except Shingle and Shake Mills)).

321216 Particle Board and Fibreboard Mills

This Canadian industry comprises establishments primarily engaged in manufacturing particle board and fibreboard. Particle board is made from wood particles, which are often the residue from other wood processing operations, combined under heat and pressure with a water resistant binder. Fibreboard is made from wood fibres, bonded together completely or partially by the lignin in the wood.

321217 Waferboard Mills

This Canadian industry comprises establishments primarily engaged in manufacturing waferboard and oriented strandboard (OSB). These products are made from wafers or strands of wood such as aspen, poplar or southern yellow pine, combined with a waterproof binder, and bonded together by heat and pressure.

3221 Pulp, Paper and Paperboard Mills

This industry group comprises establishments primarily engaged in manufacturing pulp, paper or paperboard. Establishments that manufacture pulp, paper or paperboard, either alone or in combination with paper converting, are included.

Exclusion(s): Establishments primarily engaged in:

- manufacturing paper or paperboard products from purchased paper or paperboard (3222, Converted Paper Product Manufacturing).

32211 Pulp Mills

This industry comprises establishments primarily engaged in manufacturing pulp from any material, by any process. These establishments sell or transfer the pulp to separate paper-making establishments; they do not make it into paper themselves. Establishments that process waste paper into pulp ("de-inking plants") are included.

Exclusion(s): Establishments primarily engaged in:

— manufacturing pulp and making paper (32212, Paper Mills);

— manufacturing pulp and making paperboard (32213, Paperboard Mills).

322111 Mechanical Pulp Mills

This Canadian industry comprises establishments primarily engaged in manufacturing pulp from any material, using mechanical or semi-chemical methods. Some important products of this Canadian industry are mechanical pulp (sometimes called "groundwood" pulp), thermo-mechanical pulp (TMP) and semi-chemical pulp.

Exclusion(s): Establishments primarily engaged in:

— manufacturing pulp and making paper, except newsprint (322121, Paper (except Newsprint) Mills);

— manufacturing pulp and making newsprint (322122, Newsprint Mills);

— manufacturing pulp and making paperboard (322130, Paperboard Mills).

322112 Chemical Pulp Mills

This Canadian industry comprises establishments primarily engaged in manufacturing pulp from any material, using chemical methods. "Kraft" pulp is chemical pulp obtained from the sulphate or soda processes. Establishments that process waste paper into pulp are included.

Exclusion(s): Establishments primarily engaged in:

— manufacturing pulp and making paper, except newsprint (322121, Paper (except Newsprint) Mills);

- manufacturing pulp and making newsprint (322122, Newsprint Mills);
- manufacturing pulp and making paperboard (322130, Paperboard Mills).

32212 Paper Mills

This industry comprises establishments primarily engaged in manufacturing paper, other than paperboard. Establishments that manufacture paper in combination with pulp manufacture or paper converting, are included.

Exclusion(s): Establishments primarily engaged in:

- manufacturing pulp, but not making any paper or paperboard (32211, Pulp Mills);
- converting purchased paper into paperboard containers (32221, Paperboard Container Manufacturing);
- converting purchased paper and paperboard into paper bags and coated and treated paper products (32222, Paper Bag and Coated and Treated Paper Manufacturing);
- converting purchased paper and paperboard into paper products other than paperboard containers, paper bags and coated and treated paper products (32229, Other Converted Paper Product Manufacturing).

322121 Paper (except Newsprint) Mills

This Canadian industry comprises establishments primarily engaged in manufacturing paper, other than newsprint and paperboard. Establishments that manufacture paper (except newsprint) in combination with pulp manufacture or paper converting, are included.

322122 Newsprint Mills

This Canadian industry comprises establishments primarily engaged in manufacturing newsprint, including groundwood printing paper. Establishments that manufacture newsprint in combination with pulp manufacture, are included.

32213 Paperboard Mills

This industry comprises establishments primarily engaged in manufacturing paperboard. Establishments that manufacture paperboard in combination with pulp manufacture or paperboard converting, are included.

Exclusion(s): Establishments primarily engaged in:

- manufacturing particle board, fibreboard, waferboard and similar reconstituted wood board products (32121, Veneer, Plywood and Engineered Wood Product Manufacturing);
- manufacturing building paper (32212, Paper Mills).

322130 Paperboard Mills

This Canadian industry comprises establishments primarily engaged in manufacturing paperboard. Establishments that manufacture paperboard in combination with pulp manufacture or paperboard converting, are included.

Section 2

Expenditure Measures[1]

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[1] Most of these measures are presented in sections 5 and 6 of the 2006-2007 Budget Speech, Budget Plan.

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1. Investment of $110 million to fund the 2006-2009 Youth Action Strategy

The government has committed to implementing the 2006-2009 Youth Action Strategy, which will be unveiled in the near future. The Secrétariat à la jeunesse, in collaboration with a number of government departments and agencies, participated in devising this strategy, which is the result of widespread public consultations carried out in 2005 with groups representing or working with young people, as well as young people themselves.

The 2006-2007 Budget Speech announces an additional investment of $110 million over three years to fund this strategy.

This amount will be broken down as follows:

- $44.4 million in the form of a transfer from the Fonds jeunesse Québec;
- $66.2 million in the form of additional budgetary appropriations.

TABLE 1

ADDITIONAL INVESTMENTS UNDER THE 2006-2009 YOUTH ACTION STRATEGY
(millions of dollars)

	2006-2007	2007-2008	2008-2009	Total
Additional investments	29.6	39.3	41.7	110.6
Funding – transfer from the Fonds Jeunesse Québec	– 29.6	– 6.6	– 8.2	– 44.4
APPROPRIATIONS	**–**	**32.7**	**33.5**	**66.2**

Appropriations of $32.7 million in 2007-2008 and of $33.5 million in 2008-2009 will be granted for this purpose to the ministère du Conseil exécutif in respect of the Secrétariat à la jeunesse.

2. Funding the development of recreational, sport and cultural facilities

Over the past three years, the government has made the modernization of Québec's infrastructures one of its priorities. While continuing to invest in hospitals and schools, the government will allocate additional resources to the restoration and development of recreational, sport and cultural facilities.

With this in mind, the government is setting up two funds that will be drawn from a portion of the income generated by the tobacco tax that will be used, until September 2006, to fund the Fonds spécial olympique.

2.1 The Fonds pour le développement du sport et de l'activité physique

To encourage the development of sports and recreational facilities and support the organization of sporting events, the government will create the Fonds pour le développement du sport et de l'activité physique.

This fund will be a legacy of our Olympic commitment of 1976. Income in the amount of $15 million in 2006-2007 and $30 million per year as of 2007-2008 will be allotted to this fund. Therefore, taking into account the anticipated contribution of the government's partners, this fund will allow for the carrying out of close to $500 million in additional sports and recreational infrastructure work over the next five years.

The federal government will be invited to take part in this program, which means that the level of investment may be even higher.

As part of the creation of the Fonds pour le développement du sport et de l'activité physique, the government has identified two action priorities.

Sports and recreational facilities

Sedentary living is a plague that afflicts the population of North America and exerts growing pressure on health-care costs. As stated in the Perrault Report on the promotion of healthy lifestyle habits in young people, the increase in the prevalence of sedentary living and the growing number of overweight young Quebecers is linked to the development of a number of chronic diseases and affects the population's life expectancy.

To instil a culture of sports and recreation, the population must have access to proper facilities and take part in activities or major events that promote them. Currently, these conditions cannot be offered to the Québec population, mainly due to the patent lack of sports and recreational facilities and the often dilapidated and substandard condition of the facilities.

To rectify this situation, the Fonds pour le développement du sport et de l'activité physique will provide $24 million per year to finance the debt service relating to investments in sports and recreational facilities, in partnership with municipalities and educational institutions that are already very active in this area.

— This initiative will result in the creation of a network of adequate facilities not only for members of the population who are physically active, but also for young people and athletes who take part in competitions, whether at the regional, national or international level.

— Eligible projects may include the construction or renovation and upgrading of facilities such as natural or synthetic soccer and football fields, swimming pools, gymnasiums, short- and long-track speed-skating rinks, sports centres for persons with disabilities, and more specialized facilities such as an indoor volleyball court or a velodrome.

Support for the organization of sporting events

The Groupe de travail sur l'accueil d'événements sportifs internationaux au Québec examined in detail the problems linked to organizing sporting events in Québec. One of the issues raised was the availability of funding. Thus, an amount of $6 million per year will be set aside in the Fonds pour le développement du sport et de l'activité physique to support bids for and the organization of sporting events. This amount may be increased thanks to contributions from the federal government and other partners.

These events may include not only large-scale competitions (such as the World University Games, the Pan-American Games, the Jeux de la Francophonie, etc.), but also medium-scale events (various Canadian championships, for example).

The details of these two action priorities will be announced at a later date by the Minister of Education, Recreation and Sports.

2.2 The Fonds culturel du patrimoine québécois

Of all the activity sectors of the ministère de la Culture et des Communications, heritage is of particular importance in terms of tangible assets. Québec boasts a substantial number of elements (buildings, archaeological sites, works of art, etc.) that bear eloquent witness to its history and culture and that give the landscapes of its towns and countryside their unique character. It is thus essential to preserve the key elements of this built heritage and ensure that future generations can continue to enjoy this property.

For this purpose, and given the urgency of the needs expressed in the area of heritage, the government is creating the Fonds culturel du patrimoine québécois. This fund will be devoted chiefly to the preservation, renovation, development and upgrading of the key elements of Québec's built heritage, specifically in the following sectors:

- property protected by the *Cultural Property Act*;
- buildings, sites and elements of considerable heritage value;
- the preservation and maintenance of works of art that are integrated into architecture and the environment.

The income allocated to this new fund will be $5 million in 2006-2007 and $10 million per year as of 2007-2008.

The Fonds culturel du patrimoine québécois will fund projects in collaboration with other community partners. Taking into account the contribution of these partners, investments of $200 million will be devoted to culture over the next five years.

Conditions governing the use of this new fund will be made public at a later date by the Minister of Culture and Communications.

3. Developing our heritage, supporting our artists

3.1 *Assistance for museums*

Museums are both a major cultural vector for Quebecers and an important tourist attraction.

This alliance between tourism and culture encourages economic development and job creation, provides important leverage for the development and diversification of regional economies and contributes to the preservation and development of Québec's cultural heritage.

To assist museums in their social and cultural mission, the 2006-2007 Budget Speech announces investments of $5 million.

Additional appropriations of $5 million in 2006-2007 will be granted for this purpose to the ministère de la Culture et des Communications.

3.2 *Specialized training in music and dance*

Since the late 1970s, the ministère de la Culture et des Communications has offered the program *Soutien à la formation des jeunes,* designed to support organizations offering young people musical or dance training in preparation for higher education. The aim of the program is to provide, throughout Québec, quality instruction to enable budding professional musicians and dancers to develop their talent.

This program introduces over 11 700 students from different regions in the province to these arts disciplines. However, the budgetary resources currently available are insufficient to meet the demand.

To support the training of professional musicians and dancers, the 2006-2007 Budget Speech is devoting an additional $1 million annually to the *Soutien à la formation des jeunes* program. This additional budget envelope will benefit close to 100 organizations and some 25 000 young people.

Additional appropriations of $1 million in 2006-2007 and 2007-2008 are provided for in the budget envelope of the ministère de la Culture et des Communications for this purpose.

4. Facilitating work-family balance

4.1 Increased support for community stopover centres

Over 200 community stopover centres assist parents who require care services for their children, for either a set period of a few hours per week, one or more half-days, or evenings or weekends. These centres thus accommodate the specific needs of numerous parents. Currently, community stopover centres provide care to close to 12 000 children.

The 2006-2007 Budget Speech announces an increase of $3 million in the financial support granted to community organizations in 2006-2007 in order to stabilize their stopover centre services, with an average of up to $14 000 per stopover centre being awarded. The Minister of Families, Seniors and the Status of Women will announce the application details of this measure.

The appropriations of the ministère de la Famille, des Aînés et de la Condition féminine will be increased by $3 million for this purpose in 2006-2007. The appropriations required will be drawn from the contingency fund.

4.2 School child care during the spring break

Over 160 000 preschool and elementary students benefit from the $7-per-day child-care services offered by schools outside classroom hours when they are cared for on a regular basis (a minimum of three days a week). The government devotes approximately $120 million annually to these services.

However, during the spring break, parents must pay the regular rate, which is generally $25 per day, to have their children cared for.

In order to better reconcile work and family responsibilities, the 2006-2007 Budget Speech provides for a child-care rate of $14 per day for the spring break for children who use school child-care services.

The rate of $14 per day will be offered for a maximum of five days during the spring break. Furthermore, families in which the parents work or study may claim the refundable tax credit for child-care expenses. For example, a couple of workers that earns $50 000 per year and has a 9-year-old child will pay, after taxes, $3.99 per day during the spring break, rather than $7.12.

TABLE 2

CHILD-CARE RATE AFTER TAXES DURING THE SPRING BREAK
Couple earning two employment incomes with a 9-year-old child
(2006, in dollars per day)

	Before Budget	**After Budget**
Family income	**$25/day** (private or school child care)	**$14/day** (school child care)
$25 000	3.20	1.79
$50 000	7.12	3.99
$75 000	12.87	7.21
$100 000	13.41	7.51

Note: For the purposes of this example, the calculation of the child-care rate includes, in particular, the Québec tax credit for child-care expenses and the federal child-care deduction, and assumes that the child attends a reduced-contribution child-care service for the 200 days of the school year (including pedagogical days).

The appropriations of the ministère de l'Éducation, du Loisir et du Sport will be increased by $4 million per year as of 2006-2007. The appropriations required for 2006-2007 will be drawn from the contingency fund.

5. Social housing

The 2006-2007 Budget Speech provides for an investment of $158 million for social housing over three years, i.e.:

- $83 million to build 1 400 additional social housing units, bringing the number of units delivered since 2002 to 20 000;
- $29 million to offset the increase in the construction costs of social housing, thereby maintaining the current construction pace;
- $45 million over three years to repair low-rental housing units and bring the maintenance budget to more than $80 million for each of the three following years, for an annual increase of more than 20%.

TABLE 3

ADDITIONAL INVESTMENTS IN SOCIAL HOUSING
(millions of dollars)

	2006-2007	2007-2008	2008-2009	Total
Build 1 400 social housing units, bringing the total to 20 000	–	83.4	–	83.4
Offset the increase in the construction costs of social and community housing	24.8	4.6	–	29.4
Invest in the repair and maintenance of low-rental housing units	15.0	15.0	15.0	45.0
TOTAL	**39.8**	**103.0**	**15.0**	**157.8**

5.1 Investment of $83 million in the construction of 1 400 additional social housing units

The 2006-2007 Budget Speech provides for investments of $83 million for the construction of 1 400 additional social housing units under the *AccèsLogis Québec* program.

This brings the number of new social housing units under way to 20 000. With this budget commitment, the government has devoted over $1 billion in assistance to the construction of social housing, providing:

- 10 930 housing units under the *AccèsLogis Québec* program;
- 9 070 housing units under the Affordable Housing Québec program.

As at January 31, 2006, of the 20 000 social housing units provided for:

- 6 273 had been delivered;
- 7 849 were under way;
- 5 878 remained to be built.

The 2006-2007 Budget is the third consecutive budget that provides for investments in the construction of social housing.[2]

TABLE 4

NUMBER OF SOCIAL HOUSING UNITS

			Housing units under way			
	Housing units delivered[1]	Housing units under way[2]	Before Budget	2006-2007 Budget	Subtotal	Total
AccèsLogis Québec	3 161	3 493	2 876	1 400	4 276	10 930
Affordable Housing Québec						
Social and community component	1 849	2 604	1 052	–	1 052	5 505
Private component[3]	1 263	1 752	550	–	550	3 565
Subtotal: affordable housing	3 112	4 356	1 602	–	1 602	9 070
TOTAL	**6 273**	**7 849**	**4 478**	**1 400**	**5 878**	**20 000**

1 Status as at January 31, 2006.
2 Includes units under construction as well as projects at various stages of development, including those being reviewed by the Société d'habitation du Québec or the municipality concerned.
3 Includes the "Kativik" and "Nord-du-Québec" components.

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[2] The 2004-2005 Budget announced a goal of 16 000 housing units, upgraded to 18 600 in the 2005-2006 Budget and to 20 000 in this Budget.

To make these additional investments, the appropriations of the ministère des Affaires municipales et des Régions earmarked for the Société d'habitation du Québec will be increased by $500 000 in 2007-2008 and by $4.2 million in 2008-2009.

AccèsLogis Québec Program

The AccèsLogis Québec program enables housing bureaus, housing cooperatives, and non-profit organizations to implement community housing with a minimal contribution from their communities. This housing is offered to low-income households, which pay reduced rent varying between 75% and 95% of the median market rent.

The housing units built are offered to low-income households that pay rent of between $375 and $700 per month, depending on the city, for a heated, two-bedroom housing unit.

Component 1	Breakdown of construction costs among partners		Percentage of households that receive a rent supplement[1]
Permanent housing for low-income households: families, persons living alone, seniors who live independently, persons with disabilities who live independently	Québec:	50%	20% minimum and 50% maximum
	Community:	15%	
	Developers:	35%	
		100%	

[1] The rent supplement is an amount of financial assistance intended for low-income households which, without this additional assistance, would have to pay over 25% of their family income in rent.

Affordable Housing Québec Program

The Affordable Housing Québec Program has two components:

- The social and community component is designed particularly for housing cooperatives, non-profit organizations and housing bureaus. The housing built is offered to low-income or modest-income households at the same conditions as under the AccèsLogis Québec program.

In this component, the breakdown of construction costs among partners is as follows:	Québec:	22.5%
	Federal:	37.5%
	Community:	15.0%
	Developers:	25.0%
		100.0%

- The private component is designed mainly for private-sector developers and is of benefit essentially to middle-class households. The maximum amount of financial assistance varies from $6 000 to $18 500 per housing unit according to the type of housing and the municipality. The maximum monthly rent, which varies according to the type of housing, is set by the municipality. The rent is, for example, around $725 to $825 a month for a heated, two-bedroom housing unit.

5.2 Offset the increase in the construction costs of social housing

The high level of activity in the construction sector has resulted, in the past two years, in an increase in the construction costs of social housing under the *AccèsLogis Québec* and Affordable Housing Québec programs.

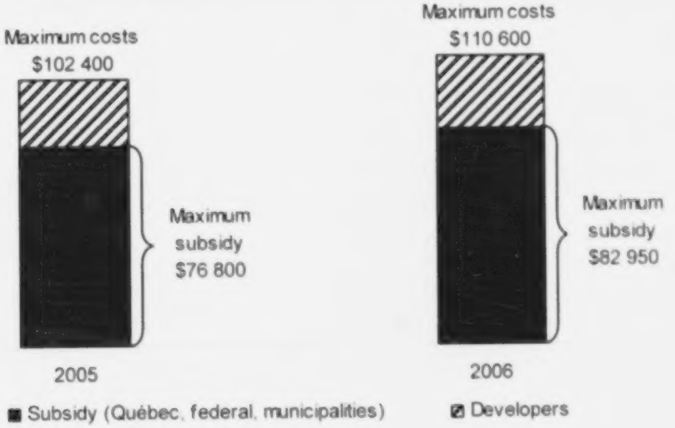
To take this rise in construction costs into consideration, the 2006-2007 Budget Speech is injecting $29 million to increase, by 8%, the maximum implementation costs recognized under these two programs. This measure will apply to projects that have received conditional commitment, are under analysis or are to be implemented.

For example, the maximum subsidy that can be granted for the construction of a two-bedroom housing unit under the Affordable Housing Québec – Social And Community Component will rise from $76 800 to $82 950.

The increase in the maximum implementation costs will help maintain the construction pace of the 20 000 housing units promised.

CHART 1

AFFORDABLE HOUSING QUÉBEC – SOCIAL AND COMMUNITY COMPONENT
Maximum eligible subsidy for a two-bedroom housing unit in Montréal[1]



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[1] Project for families, people living alone or independent seniors.

For this purpose, the appropriations of the ministère des Affaires municipales et des Régions earmarked for the Société d'habitation du Québec will be increased by $1 million in 2007-2008 and $2.5 million in 2008-2009.

5.3 Investment of $45 million over three years for the repair and maintenance of low-rental housing units

62 884 of Québec's low-rental housing units, which are managed by housing bureaus, are, on average, over 25 years old.

The housing bureaus have identified major repairs required by these low-rental housing units, and accelerated spending is called for so that the work required to maintain them in good condition can be carried out.

To further accelerate repair and maintenance investments, the 2006-2007 Budget Speech provides for an increase of $5.3 million in the budget allocated for major repairs over the next three years.

Taking into account contributions from the federal government and the municipalities, this spending increase by the Québec government will entail investments of $45 million over three years, thereby augmenting the total annual repair budget for low-rental housing to over $80 million in 2006, 2007 and 2008, for an annual increase of more than 20%.

To that end, the appropriations of the ministère des Affaires municipales et des Régions earmarked the Société d'habitation du Québec will be increased by $5.3 million in 2006-2007 and in 2007-2008. The appropriations required for 2006-2007 will be drawn from the contingency fund.

6. Toward responsible forest management

6.1 A $425-million loan envelope for primary forest product processing businesses

To support the funding of the investment and modernization projects of Québec forestry companies, the government will make a loan envelope of $425 million available to them through Investissement Québec. This envelope will serve to fund projects carried out by primary forest product processing businesses, thereby helping them boost their productivity and competitiveness.

Forestry companies currently have considerable liquid assets held in trust further to the imposition of countervailing and antidumping duties on lumber. In this context, the loans granted by Investissement Québec to forestry companies will be endorsed by unconditional letters of commitment concerning the amounts that will be recovered once the dispute is settled.

To that end, additional appropriations of $10 million in 2006-2007 and in 2007-2008 will be granted to the ministère du Développement économique, de l'Innovation et de l'Exportation. The appropriations required for 2006-2007 will be drawn from the contingency fund.

6.2 Silvicultural investments

To ensure a stable supply of quality wood in all regions of Québec, in both public and private forests, the government has set aside a $75-million budget envelope over a four-year period. The measures introduced will allow for the implementation of a silvicultural investment strategy, which will target, in particular:

- the revitalization of degraded deciduous forests;
- the rehabilitation of poorly regenerated sites;
- the intensification of silviculture on sites with high potential;
- other silvicultural treatments aimed at increasing the yield of forest stands.

This strategy is in keeping with the principles of sustainable development.

The details of this strategy will be disclosed in the near future by the Minister of Natural Resources and Wildlife.

To that end, additional appropriations of $10 million in 2006-2007 and of $20 million in 2007-2008 will be granted to the ministère des Ressources naturelles et de la Faune. The appropriations required for 2006-2007 will be drawn from the contingency fund.

6.3 Support for workers in the forestry sector

Several workers in the forestry sector have been dismissed due to the restructuring of the activities of forestry companies.

To assist these workers, the 2006-2007 Budget Speech announces financial assistance of $44 million over the next four years to set up a new assistance program.

This new program will provide assistance to the workers affected so that they can be reassigned elsewhere in the forestry sector or to another sector of activity. Essentially, this assistance will consist of:

— financial support during the transition period;

— job-search training and supervision.

Discussions are under way to encourage the federal government to make a financial contribution to the program.

The Minister of Employment and Social Solidarity will unveil the content of this program in the near future.

To that end, additional appropriations of $10 million in 2006-2007 and in 2007-2008 will be granted to the ministère de l'Emploi et de la Solidarité sociale. The appropriations required for 2006-2007 will be drawn from the contingency fund.

7. Supporting our farmers

7.1 Upgrading epidemiological surveillance and animal disease laboratories

The government announces the upgrading of the epidemiological surveillance and animal disease laboratories located in Saint-Hyacinthe and Québec City.

This initiative will enable Québec to fulfil its needs and obligations in matters of public health, animal health, veterinary diagnosis, biosafety, the environment and as a partner in Québec's civil protection plan.

Upgrading these two laboratories to meet new standards and requirements calls for their reconstruction and the hiring of specialized staff. Investments of $77 million are required for reconstruction, i.e. $51.3 million for the laboratory in Saint-Hyacinthe and $25.7 million for the laboratory in Québec City.

To that end, appropriations of $800 000 will be granted to the ministère de l'Agriculture, des Pêcheries et de l'Alimentation for fiscal 2007-2008.

7.2 Special assistance for the confinement of reared birds

To enable Québec producers of reared birds – with the exception of ostrich, emu and rhea breeders – to comply with the *Regulation respecting the designation of a contagious disease and an infectious agent, and the confinement of captive birds,* which aims to protect animals from infections borne by wild birds, the government is announcing special financial assistance.

This assistance will help producers make the investments necessary for the confinement of their birds within facilities that are erected and laid out so as to prevent any direct or indirect contact with wild birds. The assistance granted will support investments of over $6 million.

The details of this financial assistance will be specified at a later date by the Minister of Agriculture, Fisheries and Food.

To that end, additional appropriations of $1.2 million in 2006-2007 and of $400 000 in 2007-2008 are provided for in the budget envelope of the ministère de l'Agriculture, des Pêcheries et de l'Alimentation.

8. Banking on innovation and R&D

To achieve the research and innovation objectives of the government's economic development strategy, The Québec Advantage, the government will support efforts to capitalize on public research results, the funding of organizations devoted to research and the enhancement of research and development in SMEs.

8.1 Capitalizing further on public research results

To support researchers wishing to confirm the technical feasibility and the economic potential of their research results, the government is introducing a technology maturation program, which will, for example, allow researchers at universities and public research centres to evaluate the extent of the testing conducted on a newly developed technology and decide whether further work is needed. The identification of market potential is a decisive stage in ensuring venture capital funding for a project. This initiative will contribute to the development of products and technologies while creating wealth and jobs in Québec.

To that end, additional appropriations of $5 million in 2006-2007 and in 2007-2008 are provided for in the budget envelope of the ministère du Développement économique, de l'Innovation et de l'Exportation.

8.2 Financing organizations dedicated to research

Certain technologies are characterized by the productivity gains they generate for the many sectors that appropriate them. Optics-photonics, genomics and nanotechnologies are just some research fields in which such strategic technologies are being developed.

To further develop research in these strategic fields, the government will grant funding of $7 million per year to the Institut national d'optique. Génome Québec and Nano-Québec will also receive government funding.

To that end, additional appropriations of $13 million in 2006-2007 and of $10 million in 2007-2008 are provided for in the budget envelope of the ministère du Développement économique, de l'Innovation et de l'Exportation.

8.3 Enhance research and innovation by SMEs

To provide an incentive for more SMEs to engage in innovation-related activities, the government is introducing, among other things, a strategic employment support program. This program will help SMEs hire new employees for jobs related to innovation.

The terms and conditions of this financial assistance will be disclosed at a later date by the Minister of Economic Development, Innovation and Export Trade.

For this purpose, additional appropriations of $5 million in 2006-2007 and of $5.5 million in 2007-2008 are provided for in the budget envelope of the ministère du Développement économique, de l'Innovation et de l'Exportation.

8.4 Financial contribution to Biomed Développement

Biomed Développement is a private, non-profit organization whose mission is to develop the technological infrastructures of the Parc biomédical of the Université de Sherbrooke and capitalize on university research results in partnership with businesses in the biotechnology and life sciences sectors in the region.

This organization participates actively in the development and consolidation of this research leader in human health. To support Biomed Développement in its mission and allow for the full-fledged development of the Centre de développement des biotechnologies de Sherbrooke, the Québec government intends to grant Biomed Développement financial assistance of $1 million.

For this purpose, additional appropriations of $1 million in 2006-2007 are provided for in the budget envelope of the ministère du Développement économique, de l'Innovation et de l'Exportation.

9. Supporting regional vitality

9.1 *Development of regional niches of excellence*

Under the Action concertée de coopération régionale de développement (ACCORD) program, regional partners have identified sectors of economic activity – niches of excellence – for which they have certain comparative advantages that given them an edge on the competition. To support this program and its implementation with regional partners, the government will grant financial assistance to be used, in particular, to support market development initiatives and worker training as well as research and development projects.

To that end, additional appropriations of $2.5 million in 2006-2007 and of $5 million in 2007-2008 are provided for in the budget envelope of the ministère du Développement économique, de l'Innovation et de l'Exportation.

9.2 *Increase in the funding of regional conferences of elected officers (CREs)*

To be able to rely on well-organized joint action and planning structures that ensure regional development, the government is augmenting the annual budget devoted to regional conferences of elected officers (CREs) by an amount of $8 million over three years.

Furthermore, this additional funding will increase by $500 000 the budget of each of the three CREs of the Montérégie region and each of the three CREs of the Nord-du-Québec region, thereby giving them access to the equivalent of the average budget of other Québec CREs. Given the specific nature of the territory it serves, the CRE of Montréal will also see its budget increased by $1.5 million. Finally, the budget base of each of these CREs will be increased by 10% in order to take into consideration the new mandates entrusted to them.

To that end, additional appropriations of $8 million in 2006-2007 and in 2007-2008 are provided for in the budget envelope of the ministère des Affaires municipales et des Régions.

9.3 New funding of $45 million for local investment funds

To enable local development centres (CLDs) to meet the needs of businesses in the regions, especially for emerging business projects and business start-ups, local investment funds will receive new funding of $45 million.

Accordingly, additional appropriations of $4.5 million in 2006-2007 and in 2007-2008 will be granted and shared among the ministère du Développement économique, de l'Innovation et de l'Exportation, the ministère des Affaires municipales et des Régions and the Bureau de la Capitale-Nationale, based on the responsibility of each one in respect of CLDs. The appropriations required for 2006-2007 will be drawn from the contingency fund.

9.4 FIER-Régions: additional funding of $30 million

Given the success of the FIER-Régions formula, the funding granted thereto will be increased by $30 million, distributed mainly among the six administrative regions that do not currently have a regional economic intervention fund. These new investments will help complete the implementation of FIER-Régions throughout Québec.

Thus, the government's contribution to the FIER-Régions component will rise from $156 million to $186 million. Taking into account the contribution of regional business communities, the FIER-Régions fund will ensure investments of $279 million in SMEs located in the regions.

9.5 Contribution of $10 million to the Fonds d'investissement en économie sociale

The Fonds d'investissement en économie sociale, an initiative of the Chantier de l'économie sociale, will enable venture capital to be channelled to activities fostering the emergence, development and consolidation of collectively-owned enterprises throughout Québec.

To allow for additional business investments, the Québec government is announcing a refundable $10-million contribution over a five-year period to the Fonds d'investissement en économie sociale. These investments will raise the amounts collected by the fund to over $58 million.

This is a structuring project aimed at mobilizing all partners in Québec's collectively-owned enterprises. Through its contribution, the government will ensure that the conditions for implementing the Fonds d'investissement en économie sociale are in keeping with the needs of community players.

Accordingly, additional appropriations of $2.5 million will be granted to the ministère du Développement économique, de l'Innovation et de l'Exportation for fiscal 2006-2007 to provide for financial intervention. These appropriations will be drawn from the contingency fund.

9.6 Transfer of the Société québécoise d'exploration minière to the Abitibi-Témiscamingue region

In order to bring the planning and decision-making process closer to where mining exploration is chiefly carried out in Québec, that is, the Abitibi-Témiscamingue region and the northern territories, the government will devote $9 million over three years to transfer, from Québec City to Val-d'Or, in the Abitibi-Témiscamingue region, the head office of the Société québécoise d'exploration minière (SOQUEM).

Created as a government corporation in 1965, the SOQUEM became a wholly-owned subsidiary of the Société générale de financement du Québec (SGF) in 1998. It carries out exploration and development of mineral resources throughout Québec, particularly in remote regions, thanks to partnerships with corporations in the private sector.

For this purpose, additional appropriations of $3 million in 2006-2007 and in 2007-2008, intended for the SGF, will be granted to the ministère du Développement économique, de l'Innovation et de l'Exportation. The appropriations required for 2006-2007 will be drawn from the contingency fund.

9.7 Evaluation of mining potential

The discovery of new mineral reserves is crucial to the maintenance and development of mining activities in Québec. Thus, inventorying mining potential is a vital phase in the planning of exploration work that can lead to the discovery of economically viable deposits.

The availability and quality of the data pertaining to mining potential are major assets in sparking the interest of mining corporations in carrying out exploration work in Québec.

In this context, additional appropriations of $1 million in 2006-2007 and of $2 million in 2007-2008 will be granted to the ministère des Ressources naturelles et de la Faune to fund additional geoscientific work done by Géologie Québec. The appropriations required for 2006-2007 will be drawn from the contingency fund.

10. Municipalities

10.1 Reduction of the share of the costs of Sûreté du Québec services borne by the municipalities

For the past few years, the contribution paid by the municipalities for the services of the Sûreté du Québec has been calculated according to a formula that considers the population and real estate wealth of municipalities.

Originally, municipalities contributed approximately 50% of the overall cost of services. Since then, given that real estate wealth has increased considerably, the relative share of municipalities has risen steadily, whereas that of the government has diminished.

The government will gradually scale back the overall contribution of municipalities to the costs of Sûreté du Québec services to closer to 50% between now and 2009-2010. Thus, the level, before rebates, of the total contribution of municipalities to the Fonds des services de police will decline from 60% to 59% in 2006, 57% in 2007, 55% in 2008, and finally 53% as of 2009.

The Québec government intends to review, in spring 2006, the sharing of the costs of Sûreté du Québec services to ensure that, henceforth, there is a more tangible link between the costs billed and the services provided to municipalities.

Accordingly, additional appropriations of $11.1 million in 2007-2008 are provided for in the budget envelope of the ministère de la Sécurité publique.

10.2 Full taxation of State museums, the Grande Bibliothèque and the Grand Théâtre de Québec

State museums, the Grande Bibliothèque and the Grand Théâtre de Québec enjoy a special tax status such that they do not pay all the municipal taxes that would be otherwise payable. The government intends to abolish this special status.

The government will thus propose amendments to the *Act respecting municipal taxation* to ensure that as of 2007, State museums, the Grande Bibliothèque and the Grand Théâtre de Québec pay full compensation for municipal taxes. This measure will provide some $4.3 million per year in additional taxes to the Ville de Montréal and $3.5 million to the Ville de Québec.

To that end, additional appropriations of $2 million in 2006-2007 and of $7.8 million in 2007-2008 will be granted to the ministère de la Culture et des Communications. The appropriations required for 2006-2007 will be drawn from the contingency fund.

11. Tourism development

The tourism industry generates significant economic spin-offs and is a major development vector for the regions of Québec. It is therefore important to support activities and projects that help this industry thrive.

To that end, additional appropriations of $3 million in 2006-2007 are provided for in the budget envelope of the ministère du Tourisme. The Minister of Tourism will specify how these appropriations are to be allocated.

12. Québec's international policy

To support the action plan of Québec's new international policy, which will be implemented as of 2006, the government is granting an amount of $20 million over three years to, among other things:

- reinforce Québec's presence among international organizations;
- consolidate and step up Québec's economic exchanges with high-potential markets such as Mexico, Brazil, Japan, China and India;
- promote smooth, safe movement at the United States border to facilitate trade;
- attract foreign researchers and facilitate the participation of Québec researchers in international research teams;
- support the marketing and international dissemination of Québec cultural products and events.

To that end, additional appropriations of $4 million in 2006-2007 and of $8 million in 2007-2008 will be granted to the ministère des Relations internationales. The appropriations required for 2006-2007 will be drawn from the contingency fund.

13. Compensation for crime victims

In Québec, victims of crimes committed against their persons may receive compensation and services provided for under the *Crime Victims Compensation Act*.

The Minister of Justice will propose amendments to this act in order to adjust the amount stipulated for the reimbursement of funeral expenses and provide for the eligibility of relatives of the victims of criminal acts for psychotherapeutic rehabilitation services.

To that end, the appropriations of the ministère de la Justice will be increased by $500 000 in 2006-2007 and by $1.5 million as of 2007-2008. The appropriations required for 2006-2007 will be drawn from the contingency fund.

Section 3

Financial Impact of Fiscal and Budgetary Measures

RECALL - 2004-2005 AND 2005-2006 BUDGETS – PERSONAL INCOME TAX REDUCTION

(millions of dollars)

	Financial impact for the government		
	Full year	2006-2007	2007-2008
2004-2005 BUDGET			
Gain of $1 billion for taxpayers			
Child Assistance	-547	-547	-547
Work Premium	-243	-243	-243
Single personal income tax system	-219	-219	-219
Total	**-1 009**	**-1 009**	**-1 009**
2005-2006 BUDGET			
Gain of $372 million for taxpayers			
New $500 deduction for workers	-300	-300	-325
Other measures	-72	-37	-65
Total	**-372**	**-337**	**-390**
INDEXATION OF THE TAX SYSTEM			
2004	-235	-235	-235
2005	-180	-180	-180
2006	-390	-390	-390
2007	-370	-80	-370
Total	**-1 175**	**-885**	**-1 175**

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2006-2007 BUDGET SPEECH

(millions of dollars)

	Financial impact for the government		
	Full year	2006-2007	2007-2008
A. REVENUE MEASURES[1]			
1. Personal income tax reduction			
Increase in the deduction for workers from $500 to $1 000 on January 1, 2007	-288.0	-65.0	-288.0
Enhancement of the refundable tax credit for home support for elderly persons	-54.0	-5.0	-37.0
Improvement in the tax treatment of charitable donations and other gifts	-13.0	-3.0	-13.0
Non-taxation of benefits granted by the employer in respect of transit passes	-6.0	-2.0	-6.0
Reduction from $50 000 to $25 000 of the amount above which income averaging for artists is allowed	-1.0	—	-1.0
Subtotal	**-362.0**	**-75.0**	**-345.0**

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[1] Most of these measures are presented in sections 5 and 6 of *2006-2007 Budget: Budget Plan*.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2006-2007 BUDGET SPEECH (cont.)

(millions of dollars)

	Financial impact for the government	
	2006-2007	2007-2008
A. REVENUE MEASURES (cont.)		
2. Responsible forest management		
Measures to reduce the costs of operations and silvicultural investments (applicable against forest royalties)	-30.0	-25.0
New 40% refundable tax credit for the construction and major repair of public access roads and bridges in forest areas	-15.0	-20.0
Capital tax credit of 15% on new investments made until 2009 by primary forest product processing companies	-25.0	-25.0
Income averaging for operators of private woodlots	—	-2.0
Subtotal	**-70.0**	**-72.0**
3. Improving business competitiveness		
Reduction from 8.5% to 8.0% of the tax rate of SMEs	-30.0	-39.0
Permanent renewal and improvement of the tax credit for on-the-job training periods as of January 1, 2007	—	-25.0
Increased access to R&D tax credits	-2.0	-4.0
Subtotal	**-32.0**	**-68.0**
4. Supporting our farmers		
Refundable tax credit of 30% for the acquisition of pig manure treatment facilities	-4.0	-7.0
50% deduction of employment income for foreign farm workers	-0.3	-0.3
Subtotal	**-4.3**	**-7.3**
5. Taking action to cut greenhouse gases		
Increase from 100% to 200% in the tax deduction for employers who purchase transit passes for their employees	—	-4.0
Full refund of the fuel tax to public carriers	-10.0	-10.0
Refund of the first $1 000 of Québec sales tax paid to purchase or lease a new hybrid vehicle	-1.0	-1.0
Subtotal	**-11.0**	**-15.0**

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2006-2007 BUDGET SPEECH (cont.)
(millions of dollars)

	Financial impact for the government	
	2006-2007	**2007-2008**
A. REVENUE MEASURES (cont.)		
6. Other measures		
Facilitating architectural access to buildings for persons with disabilities	—	-1.0
Broadening of the refundable tax credit for the production of sound recordings to DVDs and clips	—	-1.0
Improvement to the refundable tax credit respecting the reporting of tips	-2.0	-10.0
Development of expertise in financial derivatives	-0.5	-1.0
Review of the eligibility of worker participation in the Cooperative Investment Plan for shareholding workers cooperatives	-1.0	-2.0
Harmonization of the tax treatment of dividends with the federal government[2]	10.0	120.0
Subtotal	**6.5**	**105.0**
TOTAL IMPACT OF REVENUE MEASURES	**-185.8**	**-402.3**

[2] The impact over a full year is $88 million.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES
2006-2007 BUDGET SPEECH (cont.)

(millions of dollars)

	Financial impact for the government	
	2006-2007	**2007-2008**
B. EXPENDITURE MEASURES[1]		
1. Investment of $110 million to fund the 2006-2009 Youth Action Strategy	—	-32.7
2. Funding the development of recreational, sport and cultural facilities[3]		
Fonds pour le développement du sport et de l'activité physique	—	—
Fonds culturel du patrimoine québécois	—	—
3. Developing our culture and heritage		
Assistance to museums	-5.0	—
Specialized training in music and dance	-1.0	-1.0
Subtotal	**-6.0**	**-1.0**
4. Facilitating work-family balance		
Increased support for community stopover centres	-3.0	—
School child care during the spring break	-4.0	-4.0
Subtotal	**-7.0**	**-4.0**
5. Social housing		
Investment of $83 million in the construction of 1 400 additional social housing units	—	-0.5
Offset the increase in the construction costs of social housing	—	-1.0
Investment of $45 million over three years for the repair and maintenance of low-rental housing units	-5.3	-5.3
Subtotal	**-5.3**	**-6.8**
6. Responsible forest management		
$425-million loan envelope for investments by sawmills, panel board mills, and pulp and paper mills[4]	-10.0	-10.0
Measures to reduce the costs of operations and silvicultural investments (measures affecting silvicultural programs)	-10.0	-20.0
Support program for workers	-10.0	-10.0
Subtotal	**-30.0**	**-40.0**

[1] Most of these measures are presented in sections 5 and 6 of the *2006-2007 Budget: Budget Plan*.

[3] Measures funded directly from a portion of the income generated by the tobacco tax that will be used, until September 2006, to finance the Fonds spécial olympique.

[4] Budgetary reserve built into the financial framework.

FINANCIAL IMPACT OF FISCAL AND BUDGETARY MEASURES 2006-2007 BUDGET SPEECH (cont.)

(millions of dollars)

	Financial impact for the government	
	2006-2007	**2007-2008**
B. EXPENDITURE MEASURES (cont.)		
7. Supporting our farmers		
Upgrading of epidemiological surveillance and animal disease laboratories	—	-0.8
Special assistance for the confinement of reared birds	-1.2	-0.4
Subtotal	**-1.2**	**-1.2**
8. Banking on innovation and R&D		
Capitalize further on public research results	-5.0	-5.0
Finance organizations dedicated to research	-13.0	-10.0
Step up research and innovation by SMEs	-5.0	-5.5
Financial contribution to Biomed Développement	-1.0	—
Subtotal	**-24.0**	**-20.5**
9. Supporting regional vitality		
Development of regional niches of excellence	-2.5	-5.0
Increase in the funding of regional conferences of elected officers (CREs)	-8.0	-8.0
Additional envelope of $45 million for local investment funds (FLIs)[4]	-4.5	-4.5
Contribution of $10 million to the Fonds d'investissement en économie sociale[4]	-2.5	—
Transfer of SOQUEM to the Abitibi-Témiscamingue region	-3.0	-3.0
Evaluation of mining potential	-1.0	-2.0
Subtotal	**-21.5**	**-22.5**
10. Municipalities		
Reduction of the share of the costs of Sûreté du Québec services borne by the municipalities	—	-11.1
Full taxation of State museums, the Grande Bibliothèque and the Grand Théâtre de Québec	-2.0	-7.8
Subtotal	**-2.0**	**-18.9**
11. Tourism development	**-3.0**	**—**
12. Québec's international policy	**-4.0**	**-8.0**
13. Compensation for crime victims	**-0.5**	**-1.5**
TOTAL IMPACT OF EXPENDITURE MEASURES	**-104.5**	**-157.1**
TOTAL IMPACT OF REVENUE MEASURES	**-185.8**	**-402.3**
TOTAL IMPACT OF FISCAL AND BUDGETARY MEASURES	**-290.3**	**-559.4**

Note: A negative entry indicates a cost for the government.

[4] Budgetary reserve built into the financial framework.

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